CHAPTER 5

Marine Resources Act

LAW REVIEW AND JOURNAL COMMENTARIES

Something’s fishy: Combatting seafood fraud and mislabeling in South Carolina. Abigail A. Carson, 68 S.C. L. Rev. 973 (Spring 2017).

ARTICLE 1

General Provisions

**SECTION 50‑5‑10.** Citation of chapter.

 This chapter may be cited as the “South Carolina Marine Resources Act of 2000”.

HISTORY: 1962 Code Section 28‑180; 1952 Code Section 28‑180; 1942 Code Section 3299; 1932 Code Section 3299; 1924 (33) 1016; 1936 (39) 1644; 1993 Act No. 181, Section 1259; 2000 Act No. 245, Section 1.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Auctions and Auctioneers Section 23, Statutes Governing Auctions of Particular Properties.

S.C. Jur. Game and Fish Section 7, Interaction With Federal Government.

S.C. Jur. Game and Fish Section 11, Exemptions from License Requirements.

S.C. Jur. Game and Fish Section 13, Resident and Non‑Resident Licenses.

S.C. Jur. Game and Fish Section 16, Miscellaneous Licenses and Permits.

S.C. Jur. Game and Fish Section 17, Commercial Licenses.

S.C. Jur. Game and Fish Section 21, Harassment of or Injury to Wildlife or Hunters.

S.C. Jur. Game and Fish Section 27, Shellfish.

S.C. Jur. Game and Fish Section 28, Shrimp.

S.C. Jur. Game and Fish Section 29, Use of Nets, Seines, and Like Devices.

S.C. Jur. Game and Fish Section 30, Crabs.

S.C. Jur. Game and Fish Section 31, Miscellaneous Coastal Fisheries Laws.

S.C. Jur. Game and Fish Section 32, Restricted Areas.

S.C. Jur. Game and Fish Section 37, Searches, Seizures, and Forfeitures.

**SECTION 50‑5‑15.** Definitions.

 As used in this title pertaining to saltwaters:

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

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

 (3) “Board” means the South Carolina Board of Natural Resources.

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

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

 (6) “Bushel” means one U.S. bushel.

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

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

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

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

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

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

 (11) “Commercial equipment” means:

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

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

 (12) “Commercial purpose” means:

 (a) being engaged in buying or selling fish;

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

 (c) using commercial equipment; and

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

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

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

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

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

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

 (18) “Department” means the South Carolina Department of Natural Resources unless otherwise stated.

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

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

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

 (22) “Fish” means finfish, shellfish including mollusks, crustaceans, horseshoe crabs, whelks (conchs), turtles, and terrapin or products thereof.

 (23) “Fishing” means all activity and effort involved in taking or attempting to take fish.

 (24) “Fishery and fisheries” mean the interactions within and between:

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

 (b) the populations of fishermen;

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

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

 (e) the natural resources supporting that interaction.

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

 (26) “Fork length” means the length of a fish laid flat and measured from the tip of the closed mouth (snout) to the center of the fork of the tail. It is a straight line measure, not over the curvature of the body.

 (27) “Gig” means a device used to spear fish by hand; to take fish by hand by use of a prong, spear, or similar device and includes bow and arrow.

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

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

 (30) “Herring” means all life stages of the river herrings being blueback herring (Alosa aestivalis) and alewife (Alosa pseudoharengus).

 (31) “Inshore salt waters” means those salt waters of this State between the landward limit of the Atlantic Ocean connected by COLREG demarcation lines, and the freshwater/saltwater dividing line.

 (32) “Landed” or “to land” means to take and retain possession while afloat or to take and bring ashore.

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

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

 (b) sponges (Phylum Porifera);

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

 (d) bryozoans (Phylum Bryozoa);

 (e) sea squirts (Phylum Chordata); and

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

 (34) “Mariculture” means controlled cultivation in confinement of marine and estuarine organisms in salt waters.

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

 (36) “Mile” means one nautical mile, being six thousand seventy‑six feet.

 (37) “Minnow trap” means a trap having no opening which has a dimension greater than one inch only when used for taking small finfish for bait.

 (38) “Mollusk” or “molluscan” means a member of the phylum Mollusca.

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

 (40) “Peeler trap” means a trap constructed of one inch or smaller hexagonal wire which is:

 (a) unbaited; or

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

 (41) “Pot” has the same definition as “trap” herein contained.

 (42) “Protected species” means a species with which man’s interaction is legally controlled, restricted, or prohibited either continually or periodically.

 (43) “Public fishing pier” means piers open to the public which charge a fee to fish.

 (44) “Recreational fishermen” means persons taking or attempting to take saltwater fish for recreation only, and not for commercial purposes.

 (45) “Salt waters” mean all waters of the rivers and their tributaries, streams, and estuaries lying seaward of the dividing line between salt water and freshwater and all impounded waters seaward of the dividing line between salt water and freshwater which are intermittently filled or drained by the action of the tide.

 (46) “Saltwater gamefish” means a species of saltwater fish designated as a saltwater gamefish in this title.

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

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

 (49) “Shad” means American or white shad (Alosa sapidissima) and hickory or skip‑jack shad (Alosa mediocris).

 (50) “Shellfish” means oysters, clams, mussels, scallops, and all nonmotile molluscan fish having shells.

 (51) “Shoreline” means the line of mean high water along that portion of a land mass which is in direct contact with the waters of the Atlantic Ocean.

 (52) “Shrimp seine” means an unanchored net having a stretched mesh of not less than one inch but no greater than one and three‑quarters inches, the webbing of which does not exceed forty feet in length or six feet in depth, which is continually moved through the water by human and not mechanical power, and which has no tail bag or cod.

 (53) “Shrimp trawl” means a trawl with netting having a stretch mesh size of less than two and one‑half inches.

 (54) “Sponge crab” means a female blue crab bearing visible eggs.

 (55) “State resident” has the same meaning as prescribed in Chapter 9 of this title unless otherwise indicated.

 (56) “State waters” extend to the seaward limit of the territorial sea.

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

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

 (59) “Take” means to harass intentionally, hunt, capture, gather, harvest, remove, catch, wound, or kill or attempt to harass, hunt, capture, gather, harvest, remove, catch, wound, or kill.

 (60) “Territorial sea” means that portion of the Atlantic Ocean under the jurisdiction of the State of South Carolina.

 (61) “Total length” means the length of a fish laid flat and measured from the closed mouth (snout) to the tip of the tail fin when pinched together. It is a straight line measure, not over the curvature of the body.

 (62) “Trap” is an enclosed device used for taking fish, constructed to facilitate entry but prohibit or restrict exit of fish and is also called “pot”.

 (63) “Trawl” means a net, other than a haul seine, towed behind a boat.

 (64) “Trawler” means a vessel rigged for towing a trawl.

 (65) “Trawling” means fishing with a trawl or having part of a trawl door in the water.

 (66) “Trotline” means a single line or wire having numerous hooks or baits and is also called long line.

 (67) “Southern Cobia Management Zone” means all waters of this State south of 032° 31.0’ N latitude, the approximate latitude of Jeremy Inlet, Edisto Island.

 (68) “Shellfish mariculture” means the controlled cultivation of shellfish in confinement from seed size until harvest.

 (69) “Shellfish seed” means any shellfish that does not exceed one inch in height or maximum dimension.

HISTORY: 2000 Act No. 245, Section 1; 2001 Act No. 105, Section 1; 2002 Act No. 342, Sections 1, 2; 2009 Act No. 15, Section 4, eff July 1, 2009; 2013 Act No. 7, Section 2, eff March 22, 2013; 2013 Act No. 72, Section 2, eff June 13, 2013; 2016 Act No. 166 (H.4709), Section 1, eff April 29, 2016; 2017 Act No. 30 (S.465), Section 1, eff May 10, 2017.

Effect of Amendment

The 2009 amendment in the introductory statement substituted “title pertaining to saltwaters” for “chapter except as specified in Article 19”; added definitions of “drop net” and “fold up trap”, deleted the definition of “skim‑bow net”, and renumbered as necessary for the items to be alphabetical; in the definition of “landed” substituted “retain possession while afloat or to take and bring ashore” for “bring a saltwater fish ashore”; in the definition of “shrimp seine” deleted from the end of the first sentence and the beginning of the second “unanchored net having a stretched mesh of not less than one inch but no greater than one and three quarters inches, the webbing of which does not exceed forty feet in length or six feet in depth, which is continually moved through the water by human and not mechanical power. Beginning on the date three years following the effective date of this definition, ‘shrimp seine’ means”; in the definition of “territorial sea” deleted from the end “as depicted on charts of the National Oceanic and Atmospheric Administration or its successor agency”; and made nonsubstantive changes throughout.

The first 2013 amendment added subsection (61), the definition of “total length”, and redesignated accordingly.

The second 2013 amendment added subsection (26), the definition of “fork length”, and redesignated accordingly.

2016 Act No. 166, Section 1, added (67), relating to the Southern Cobia Management Zone.

2017 Act No. 30, Section 1, added (68), relating to shellfish mariculture, and added (69), relating to shellfish seed.

**SECTION 50‑5‑17.** Flounder Population Study Program.

 (A) There is established the Flounder Population Study Program to be administered by the Department of Natural Resources. The program shall study the effects of flounder catch limits and the prohibition of artificial illumination produced by motor fuel powered generators on flounder (Paralichthys species), located in the waters of Pawleys Inlet north to the northern terminus of Main Creek at Garden City Beach. For purposes of this resolution, “gigging” means using a prong, spear, or similar device, including a bow and arrow to spear a fish.

 (B) During the term of the program in the area defined in subsection (A):

 (1) the lawful flounder gigging and fishing catch limit is ten per day for any individual, not to exceed twenty flounder in any one day on any boat;

 (2) it is unlawful to use any type of artificial illumination produced by motor fuel powered generators while gigging or fishing for flounder from a boat or while wading in the water.

 (C) The program shall run for five years, beginning January 1, 2010, and ending June 30, 2014.

 (D) For purposes of this section, “motor fuel” has the same meaning as defined in Section 12‑28‑110(39).

HISTORY: 2010 Act No. 140, Section 1, eff March 31, 2010.

**SECTION 50‑5‑20.** Jurisdiction of Department of Natural Resources.

 (A) The department has jurisdiction over all saltwater fish, fishing, fisheries, and marine resources within the salt waters of this State, including the territorial sea.

 (B) The department is authorized to conduct research, surveys, and other investigations to manage fish and marine resources; to provide for protection of the salt waters and the marine habitat upon which these resources are dependent; and to provide for the development of saltwater fisheries and mariculture.

 (C) Except as otherwise provided, the provisions of this chapter do not apply to fish or fishing in the freshwaters of this State.

 (D) The provisions of this chapter apply to all impounded waters seaward of the freshwater/saltwater dividing line which are intermittently filled or drained by the action of the tide.

 (E) Impoundments seaward of the freshwater/saltwater dividing line which are naturally occurring or are not influenced by the action of the tide are freshwaters for purposes of jurisdiction of this title.

HISTORY: 1962 Code Section 28‑159; 1952 Code Section 28‑159; 1942 Code Section 3301; 1932 Code Section 3301; 1924 (33) 1016; 1925 (34) 225; 1952 (47) 2890; 1955 (49) 478; 1993 Act No. 181, Section 1259; 2000 Act No. 245, Section 1.

Library References

Environmental Law 512.

Fish 8.

Westlaw Topic Nos. 149E, 176.

C.J.S. Fish Sections 24 to 26.

C.J.S. Health and Environment Section 165.

NOTES OF DECISIONS

Validity 1

1. Validity

Commerce clause of Federal Constitution limits power of states to erect barriers against interstate trade, but such limitation on state regulatory power is not absolute and states retain authority, under general police powers, to regulate matters of legitimate local concern, even though interstate commerce may be affected. Maine v. Taylor, U.S.Me.1986, 106 S.Ct. 2440, 477 U.S. 131, 91 L.Ed.2d 110, on remand 802 F.2d 441. Commerce 13.5

State statute forbidding shipping of raw and unshelled shrimp out of state whereas product produced and prepared within state may be freely shipped, not because any portion is needed for consumption and use therein but to compel in‑state canning of meat and manufacture of bran from shells and heads, violates federal commerce clause. Foster‑Fountain Packing Co. v. Haydel, U.S.La.1928, 49 S.Ct. 1, 278 U.S. 1, 73 L.Ed. 147.

**SECTION 50‑5‑25.** Powers and duties; deposit of revenues.

 (A) The department shall enforce all laws for collection of revenues due this State from the saltwater fishing industries and from permitting the use of bottoms and waters.

 (B) Notwithstanding any other provision of law, the department is authorized to open and maintain a financial escrow account in which funds received from violations of this chapter and proceeds of the sale of items seized pursuant to this chapter shall be deposited and held pending final adjudication of the case.

 (C) All revenues, other than from fines and forfeitures, not otherwise provided for in this title derived from the regulation of saltwater fisheries shall be transmitted to the department for deposit in the department’s general operating fund and shall be used by the department in support of the conservation of those fisheries. Revenues and funds so collected but not expended shall be carried forward annually and used for the same purpose. All fines and forfeitures under this chapter shall be transmitted to the department and deposited in the county game and fish fund for the county in which the offense occurred.

 (D) Proceeds from sales of experimental mariculture products produced by the department shall be deposited in the state general fund to the credit of the Mariculture Research and Development Fund of the department to further encourage and promote development of the mariculture industry of this State by supporting operational research and development projects of the division and transfer of information to the mariculture industry. Funds deposited in the Mariculture Research and Development Fund shall be carried forward annually and used for the same purpose.

HISTORY: 2000 Act No. 245, Section 1.

Library References

Environmental Law 512.

Fish 8.

Westlaw Topic Nos. 149E, 176.

C.J.S. Fish Sections 24 to 26.

C.J.S. Health and Environment Section 165.

**SECTION 50‑5‑30.** Promulgation of regulations; civil offenses; penalties; suspension of permit.

 (A) The department may promulgate regulations for the government of the force under its control and for the control of fisheries, not contrary to or inconsistent with the laws and policy of the State, having the force and effect of law.

 (B) In promulgating regulations, the department shall consider scientific and other available information regarding:

 (1) current condition and trends of the species or stocks involved;

 (2) environmental factors, including water quality and climatological data;

 (3) biological data, including abundance, size, and distribution of species involved;

 (4) economic conditions including market value;

 (5) potential impacts upon fishermen and other resource users;

 (6) safety of the public and persons utilizing the resource;

 (7) effects of added development, population growth, fishing pressure, and demand for the resource; and

 (8) other factors pertinent to the management and wise use of fishery resources.

 (C) Nothing in this section reduces the authority of the department to act under other provisions of law.

 (D) Violation of a regulation is a civil offense. The department may impose a civil penalty of up to two hundred dollars or suspend the license of a person adjudicated in violation, or both.

 (E) For violation of a permit condition, in addition to any statutory criminal penalty, the department may impose a civil penalty of up to five hundred dollars and suspend or revoke the permit, or both.

 (F) The department may suspend or revoke a permit for violation of any conservation law.

HISTORY: 1962 Code Section 28‑160; 1952 Code Section 28‑160; 1942 Code Section 3308; 1932 Code Section 3308; 1924 (33) 1016; 1952 (47) 2890; 1993 Act No. 181, Section 1259; 2000 Act No. 245, Section 1.

Library References

Fish 8.

Westlaw Topic No. 176.

C.J.S. Fish Sections 24 to 26.

**SECTION 50‑5‑32.** Closing salt water fishing seasons, areas, or activities in emergency; notice; penalty.

 (A) The department has the authority to close any commercial or recreational fishing season, area, or activity in the salt waters of this State when a natural or man‑induced emergency threatens the future or present well‑being of a fishery resource or its habitat in a part of or in all of the salt waters of this State.

 (B) The department must use all reasonable means to give notice to the public of an emergency closure issued pursuant to subsection (A) as soon as practicable. An emergency closure notice must specify the cause of the emergency and the fishing season, area, or activity closed, and, if known, the duration of the closure.

 (C) When taking emergency action under this section, the department must notify the appropriate standing committees of the Senate and the House of Representatives of its actions as soon as practicable. Supporting resource assessments, scientific documentation, and notice of action taken must be provided to the committees.

 (D) During the first three days of an emergency closure instituted under this section, the department must issue only warnings for first offense, noncommercial violations of the closure.

 (E) The department must monitor the situation or occurrence under which the emergency arose and must reopen the closed season, area, or activity as soon as, but only when, the threat to the resource or its habitat no longer exists.

 (F) It is unlawful to possess specified saltwater fish in violation of an emergency closure. A person violating an emergency closure is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars nor more than one thousand dollars or imprisoned for not more than thirty days.

HISTORY: 2002 Act No. 342, Section 3; 2012 Act No. 249, Section 3, eff June 18, 2012.

Effect of Amendment

The 2012 amendment rewrote subsection (A) and, in subsection (F), substituted “possess specified” for “take or attempt to take”.

Library References

Fish 8, 13(1), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 24 to 26, 30, 34 to 39, 42 to 44.

**SECTION 50‑5‑35.** Notice of opening or closing of commercial fishing season; health and environmental protection.

 (A) In opening or closing any commercial fishing season pursuant to this chapter, except under the emergency closure authority provided in Section 50‑5‑32, the department shall give at least twenty‑four hours notice of any action and shall use all reasonable means to inform the public.

 (B) Except as provided in Section 50‑5‑955(B), nothing in this chapter alters, reduces, or amends the authority of the Department of Health and Environmental Control to regulate for public health and environmental protection.

HISTORY: 2000 Act No. 245, Section 1; 2002 Act No. 342, Section 4.

Library References

Fish 8.

Westlaw Topic No. 176.

C.J.S. Fish Sections 24 to 26.

**SECTION 50‑5‑40.** Unauthorized tagging or marking and releasing of saltwater fish; penalty.

 Unless authorized by the department, no person may tag or mark and release saltwater fish or promote such activity. A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty‑five dollars nor more than two hundred dollars or imprisoned for not more than thirty days.

HISTORY: 1962 Code Section 28‑161; 1952 Code Section 28‑161; 1942 Code Section 3315; 1932 Code Section 3315; 1924 (33) 1016; 1952 (47) 2890; 1986 Act No. 540, Part II, Section 19; 1993 Act No. 181, Section 1259; 2000 Act No. 245, Section 1; 2013 Act No. 7, Section 3, eff March 22, 2013.

Effect of Amendment

The 2013 amendment, in the first sentence, moved “unless authorized by the department” from the end to the beginning of the sentence.

Library References

Fish 13(1), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 30, 34 to 39, 42 to 44.

**SECTION 50‑5‑45.** Maintenance and publication of nonindigenous organisms list; introduction of organisms prohibited.

 (A) The department shall maintain and publish a list of any species, varieties, or strains of nonindigenous organisms known or suspected to present an adverse impact to fish or marine resources of this State. The list shall include the common and scientific name and the actual or potential adverse impact of each organism.

 (B) It is unlawful:

 (1) to place in the salt waters of this State, or in privately owned waters directly connected to salt waters of this State, any live, fresh, or frozen whole, part, or product of any listed organism; or

 (2) to sell or offer for sale as bait, any live, fresh, or frozen whole, part, or product of any listed organism.

HISTORY: 2000 Act No. 245, Section 1.

Library References

Environmental Law 526.

Fish 8.

Westlaw Topic Nos. 149E, 176.

C.J.S. Fish Sections 24 to 26.

C.J.S. Health and Environment Section 165.

**SECTION 50‑5‑50.** Prosecutions for violations of chapter.

 The department may prosecute for violations of this chapter for the collection of revenues due this State from the fishing industries and permitting of bottoms and waters and may employ counsel having special knowledge of the fisheries laws, fisheries, and coastal conditions to conduct the prosecutions in the inferior courts and assist the solicitor in the circuit courts and appellate courts.

HISTORY: 1962 Code Section 28‑162; 1952 Code Section 28‑162; 1942 Code Section 3309; 1932 Code Section 3309; 1924 (33) 1016; 1952 (47) 2890; 1972 (57) 2429; 1993 Act No. 181, Section 1259; 2000 Act No. 245, Section 1.

Library References

Fish 15.

Westlaw Topic No. 176.

C.J.S. Fish Sections 47 to 50.

**SECTION 50‑5‑55.** Suspension of privileges; magistrates court jurisdiction; penalties and restitution orders.

 (A) Any suspension of privileges under this chapter shall run concurrent with any other suspension then in effect. Except as provided in Section 50‑5‑2510, suspensions of privileges resulting from violations of this chapter begin thirty calendar days from date of conviction.

 (B) Notwithstanding any other provision of the law, the magistrates court has jurisdiction to try any criminal case that arises under this chapter and to impose the penalties set forth herein up to a maximum of five thousand dollars or thirty days’ imprisonment. In addition to any penalty imposed under this chapter, the presiding magistrate may order restitution for losses of natural resources.

 (C) A person or entity shall have all saltwater privileges and other licenses, permits, and registrations issued by the department suspended until the penalty is paid in full if the person or entity:

 (1) fails to pay a penalty arising out of a violation of this chapter within ten business days following adjudication of the matter; or

 (2) defaults on a payment plan approved by a presiding magistrate.

HISTORY: 2000 Act No. 245, Section 1.

Library References

Fish 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 42 to 44.

**SECTION 50‑5‑60.** Conspiracy to violate provision of chapter.

 A person who conspires to violate a provision of this chapter is guilty of a misdemeanor and, upon conviction, must be punished as if he had violated that provision.

HISTORY: 1962 Code Section 28‑163; 1952 Code Section 28‑163; 1942 Code Section 3323; 1932 Code Section 3323; 1924 (33) 1016; 1952 (47) 2890; 1993 Act No. 181, Section 1259; 2000 Act No. 245, Section 1.

Library References

Conspiracy 28.

Westlaw Topic No. 91.

C.J.S. Conspiracy Sections 209 to 225, 241 to 243, 247, 249 to 250.

C.J.S. Rico (racketeer Influenced and Corrupt Organizations) Section 12.

**SECTION 50‑5‑65.** Seizure and disposition of contraband; separate offense defined.

 (A) Any fish or fishery product taken or possessed in violation of any provision of this chapter is contraband and may be seized along with its container and disposed of according to law.

 (B) Any perishable item seized, the sale of which is illegal per se, may be donated by the department to a nonprofit entity, in the discretion of the department, or destroyed provided that any perishable item, the sale of which is illegal only because of the place or manner or method in which or by which it was taken must be sold, donated, or destroyed. The proceeds of any perishable item sold must be retained until final adjudication of the case. Any proceeds of the sale must be returned to the defendant in the event of a verdict of not guilty.

 (C) Living contraband taken in this State may be returned by the department to the water.

 (D) Nonperishable items may be retained by the department for use by the department or disposed of according to law. Nonperishable items which are illegal to use or which have no commercial value must be destroyed.

 (E) Neither an item of contraband nor the value of an item of contraband may inure to the benefit of any employee of the department.

 (F) Each fish, dozen of crabs, bushel of oysters, one‑half bushel of clams, quart of shrimp, or pound of other saltwater fishery product, or fraction or part thereof taken, possessed, purchased, sold, or offered for sale in violation of this chapter is a separate offense.

HISTORY: 2000 Act No. 245, Section 1; 2002 Act No. 342, Sections 5, 49.

Library References

Fish 16.

Westlaw Topic No. 176.

C.J.S. Fish Sections 45 to 46.

**SECTION 50‑5‑70.** Sale of confiscated device; redemption by owner.

 The department shall sell any confiscated device not used or destroyed by the department at public auction for cash to the highest bidder in the county where it was seized, after having given ten days’ public notice of the sale. When the device is of greater value than one thousand dollars, the owner may at any time before sale redeem it by paying to the department one thousand dollars. When the device is of lesser value than one thousand dollars, the owner may at any time before the sale redeem it by paying to the department the retail market value.

HISTORY: 1962 Code Section 28‑169; 1952 Code Section 28‑169; 1942 Code Section 3321; 1932 Code Section 3321; 1924 (33) 1016; 1952 (47) 2890; 1993 Act No. 181, Section 1259; 2000 Act No. 245, Section 1; 2002 Act No. 342, Section 6.

Library References

Fish 16, 17.

Westlaw Topic No. 176.

C.J.S. Fish Sections 3, 45 to 46.

**SECTION 50‑5‑75.** Common areas for taking of fish.

 The waters and bottoms of the bays, rivers, creeks, and marshes within this State or within the territorial sea as shown on applicable NOAA Charts, not heretofore conveyed by grant from the General Assembly or royal grant are and remain as a common for the people of this State for the taking of fish, subject to the provisions of this chapter and any future act that may be passed, except that this section is not intended to regulate fish or fishing in the freshwaters of this State.

HISTORY: 2000 Act No. 245, Section 1.

Library References

Fish 3.

Westlaw Topic No. 176.

C.J.S. Fish Sections 6 to 13.

**SECTION 50‑5‑80.** Dividing line between salt and fresh water on rivers.

 The dividing line between salt water and freshwater on the rivers listed is defined in this section, and all waters of the rivers and their tributaries, streams, and estuaries lying seaward of the dividing lines are considered salt waters, and all waters lying landward or upstream from all dividing lines are considered freshwaters for purposes of licensing and regulating commercial and recreational fishing. Except as otherwise provided below, the saltwater/freshwater dividing line is U.S. Highway 17:

 (1) On Savannah River the dividing line is the abandoned Seaboard Railroad track bed located approximately one and three‑fourths miles upstream from the U.S. Highway 17A bridge.

 (2) Wright River is salt water for its entire length.

 (3) On Ashepoo River the dividing line is the old Seaboard Railroad track bed.

 (4) On New River the dividing line is at Cook’s Landing.

 (5) Wallace River, Rantowles Creek, Long Branch Creek, and Shem Creek are salt water for their entire lengths.

 (6) On Edisto River the dividing line is the abandoned Seaboard Railroad track bed near Matthews Canal Cut.

 (7) On Ashley River the dividing line is the confluence of Popper Dam Creek directly across from Magnolia Gardens.

 (8) On Cooper River the dividing line is the seaward shoreline of Old Back River at the confluence of Old Back River downstream from Bushy Park Reservoir.

 (9) Wando River is salt water for its entire length.

 (10) On the Intracoastal Waterway in Horry County the dividing line is the bridge across the Intracoastal Waterway at the intersection of S.C. Highway 9 and U.S. Highway 17.

HISTORY: 1962 Code Section 28‑170; 1952 Code Section 28‑170; 1942 Code Section 3322; 1932 Code Section 3322; 1924 (33) 1016; 1952 (47) 2890; 1993 Act No. 181, Section 1259; 2000 Act No. 245, Section 1.

Library References

Fish 10(2).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

**SECTION 50‑5‑85.** General Trawling Zone; subzones.

 (A) The General Trawling Zone consists of the following subzones:

 (1) The Northern Subzone: from the North Carolina‑South Carolina boundary at Little River and its projection to the seawardmost territorial sea limit; to a southern boundary beginning at a point on the southern end of Cedar Island at latitude 033° 7.2’ N and longitude 079° 16.3’ W, extending seaward in a southeasterly direction (135° true) to the seawardmost territorial sea limit.

 (2) The Central Subzone: from the southernmost boundary of the northern subzone extending to a line beginning at the southern tip of Edisto Island at latitude 032° 28.6’N, longitude 080° 20.2’W, extending seaward in a southeasterly direction (135° true) to the seawardmost territorial sea limit .

 (3) The Southern Subzone: from the southernmost boundary of the central subzone to the South Carolina‑Georgia boundary and the seaward extension of the boundary to the seawardmost territorial sea limit.

 (B) The department may prohibit or allow trawling or other commercial fishing activity in any subzone or specified area therein, in or out of season.

HISTORY: 2000 Act No. 245, Section 1.

Library References

Fish 3.

Westlaw Topic No. 176.

C.J.S. Fish Sections 6 to 13.

**SECTION 50‑5‑90.** Authority to enter and inspect buildings or stop and search fishing vessels; penalty for refusal to comply with order.

 (A) It is lawful for enforcement officers to enter and inspect any and all premises, houses, sheds, or warehouses used in commercial fishing or any fishing industry; and to stop and search any boat or vessel used in fishing and in the fishing industry; and to stop and search any vehicle used in the commercial fishing industry; and to arrest, without warrant, all persons violating the natural resources or boating laws or regulations punishable by a criminal penalty.

 (B) Failure or refusal to comply with any lawful order or direction or to obstruct or evade or interfere with any officer enforcing the provisions of this chapter shall be deemed a misdemeanor, and a person convicted thereof must be fined not less than five hundred dollars and not more than twenty‑five hundred dollars or imprisonment for not more than thirty days.

HISTORY: 1962 Code Section 28‑171; 1965 (54) 576; 1981 Act No. 118, Section 1; 1993 Act No. 181, Section 1259; 2000 Act No. 245, Section 1.

Library References

Fish 8.

Westlaw Topic No. 176.

C.J.S. Fish Sections 24 to 26.

**SECTION 50‑5‑95.** Unlawful taking of saltwater fish; penalty.

 It is unlawful to take or attempt to take saltwater fish except as allowed by this chapter. Except as otherwise provided, a person violating this chapter is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty‑five dollars nor more than five hundred dollars or imprisoned for not more than thirty days.

HISTORY: 2000 Act No. 245, Section 1.

Library References

Fish 13(1), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 30, 34 to 39, 42 to 44.

**SECTION 50‑5‑100.** Knowingly obtaining saltwater fishery product taken or sold unlawfully.

 It is unlawful for any person knowingly to obtain or to attempt to obtain a saltwater fishery product taken, produced, cultured, or sold unlawfully.

HISTORY: 1962 Code Section 28‑172; 1952 Code Section 28‑172; 1942 Code Section 3328; 1932 Code Section 3328; 1924 (33) 1016; 1952 (47) 2890; 1993 Act No. 181, Section 1259; 2000 Act No. 245, Section 1.

Library References

Fish 13(1).

Westlaw Topic No. 176.

C.J.S. Fish Sections 30, 34 to 39.

**SECTION 50‑5‑105.** Unlawful activities affecting others; penalty.

 (A) It is unlawful:

 (1) to remove, wilfully damage, or interfere with any fishing equipment belonging to another;

 (2) to remove the catch without possessing written permission of the owner of the equipment, except channel nets must be operated only by the licensee; or

 (3) to wilfully interfere with or impede lawful fishing activity.

 (B) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars and not more than two thousand five hundred dollars or imprisoned not more than thirty days, and in addition must have his saltwater privileges suspended for twelve months.

HISTORY: 2000 Act No. 245, Section 1.

Library References

Fish 13(1), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 30, 34 to 39, 42 to 44.

**SECTION 50‑5‑110.** Use of poison, explosive, or bang stick to take marine resources; penalty.

 It is unlawful to use poison, an explosive, or a bang stick or similar device in state waters to take marine resources. A person who violates this section by use of poison or an explosive other than a bang stick or similar device is guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand dollars nor more than two thousand five hundred dollars or imprisoned for not more than thirty days and must have his saltwater privileges suspended for twelve months. A person who violates this section by use of a bang stick or similar device is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty‑five dollars nor more than five hundred dollars or imprisoned for not more than thirty days and must have his saltwater privileges suspended for twelve months.

HISTORY: 1962 Code Section 28‑174; 1952 Code Section 28‑174; 1942 Code Section 3310; 1932 Code Section 3310; 1924 (33) 1016; 1952 (47) 2890; 1993 Act No. 181, Section 1259; 2000 Act No. 245, Section 1.

CROSS REFERENCES

Regulations of the Department of Natural Resources, Marine Resources Division, see SC Code of Regulations R. 123‑20 et seq.

Library References

Fish 13(1), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 30, 34 to 39, 42 to 44.

**SECTION 50‑5‑115.** Responsibility for determining location of commercial fishing vessel.

 The operator of any vessel engaged in commercial fishing is responsible for accurately determining the location of his vessel in order that he not violate any closed or restricted area.

HISTORY: 2000 Act No. 245, Section 1.

Library References

Fish 10(2).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

**SECTION 50‑5‑120.** Boarding of vessel by law enforcement officers; penalty for failure to allow boarding and to cooperate.

 (A) The operator and crew of any watercraft operating in state waters are required to heave to when signaled or hailed, and allow boarding by law enforcement officers or U.S. Coast Guard personnel.

 (B) The operator, crew, and passengers of any watercraft operating in state waters are required to cooperate with law enforcement officers or U. S. Coast Guard personnel.

 (C) Any operator, crew member, or passenger, of any watercraft violating this section is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars nor more than two thousand five hundred dollars or imprisoned for not more than thirty days.

HISTORY: 1962 Code Section 28‑178; 1952 Code Section 28‑178; 1942 Code Section 3313; 1932 Code Section 3313; 1924 (33) 1016; 1952 (47) 2890; 1982 Act No. 328; 1993 Act No. 181, Section 1259; 2000 Act No. 245, Section 1; 2002 Act No. 342, Section 7.

Library References

Fish 13(1), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 30, 34 to 39, 42 to 44.

**SECTION 50‑5‑125.** Use of vessel within 300 feet of public fishing pier; penalty.

 It is unlawful to use a vessel within three hundred feet of any public fishing piers which extend into the Atlantic Ocean. A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty‑five dollars nor more than five hundred dollars or imprisoned for not more than thirty days.

HISTORY: 2000 Act No. 245, Section 1.

Library References

Fish 13(1), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 30, 34 to 39, 42 to 44.

ARTICLE 3

Licenses and Permits

**SECTION 50‑5‑300.** Commercial saltwater fishing license requirement for residents; fee; striker exception.

 (A) For the privilege of taking or landing anadromous fish, saltwater fish, or fisheries products for commercial purposes, a resident must obtain a commercial saltwater fishing license for a fee of twenty‑five dollars unless specifically exempted in this article. A resident must also obtain a commercial saltwater fishing license for the privilege of selling, exchanging, or bartering such fish or product taken or landed by the resident.

 (B) To act as a striker, a resident need not acquire a commercial saltwater fishing license.

HISTORY: 2000 Act No. 245, Section 2; 2002 Act No. 342, Section 8.

Library References

Fish 10(1).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

United States Supreme Court Annotations

Constitutionality of state laws which discriminate against nonresidents or aliens as to fishing and hunting rights. 52 L Ed 2d 824.

Attorney General’s Opinions

An individual engaged in commercial fishing is required to obtain an individual fishing license (Decided under former Section 50‑17‑110). 1969‑70 Op. Atty Gen, No 2975, p 244.

**SECTION 50‑5‑305.** Requirements for obtaining resident license; penalty.

 (A) To be granted a resident commercial saltwater license authorized under this chapter:

 (1) an applicant must present a statement from the South Carolina Department of Revenue indicating the applicant filed a South Carolina income tax form as a resident for the previous calendar year, but a person under the age of seventeen is exempt from the requirement to provide such statement; or

 (2) an applicant who did not file a South Carolina personal income tax form for the previous year must show documentation acceptable to the department proving the applicant was a resident of South Carolina for twelve consecutive months immediately prior to the date of application.

 The applicant must also present an additional form of identification acceptable to the department.

 (B) It is unlawful to obtain, attempt to obtain, or possess a South Carolina resident saltwater license while licensed for any purpose as a resident of another state.

 (C) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars nor more than two thousand five hundred dollars or imprisoned for not more than thirty days and must have his saltwater privileges suspended for twelve months.

HISTORY: 2000 Act No. 245, Section 2.

Library References

Fish 10(1).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

**SECTION 50‑5‑310.** Commercial saltwater fishing license for nonresidents; fee; striker exception.

 (A) For the privilege of taking or landing anadromous fish, saltwater fish, or fisheries products for commercial purposes, a nonresident must obtain a nonresident commercial saltwater fishing license for a fee of three hundred dollars unless specifically exempted in this article. A nonresident must also obtain a commercial saltwater fishing license for the privilege of selling, exchanging, or bartering such fish or product taken or landed by the nonresident.

 (B) To act as a striker, a nonresident need not acquire a commercial saltwater fishing license.

HISTORY: 2000 Act No. 245, Section 2; 2002 Act No. 342, Section 9.

Library References

Fish 10(1).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

NOTES OF DECISIONS

In general 2

Validity 1

1. Validity

Interstate commerce was unduly burdened by requiring shrimp fishermen in state coastal waters to unload catch and procure tax stamp at state port before shipping or transporting it to another state. Toomer v. Witsell (U.S.S.C. 1948) 68 S.Ct. 1156, 334 U.S. 385, 92 L.Ed. 1460, rehearing denied 69 S.Ct. 12, 335 U.S. 837, 93 L.Ed. 389.

South Carolina has sufficient interest in shrimp fishery within three miles of its coast to warrant it in protecting and regulating such fishery, and poundage tax on shrimp taken within three‑mile belt of state’s coast did not unconstitutionally tax imports or unduly burden interstate commerce; but, imposition of discriminatory license fee for boats owned by nonresidents was without reasonable basis and therefor a violation of privileges and immunities clause; and, requirement that shrimp fishing boats dock at a South Carolina port and unload, pack, and stamp their catch for tax purposes before shipping or transporting it to another state, unconstitutionally burdened interstate commerce and could not be sustained as proper means of insuring collect on of poundage tax (Decided under former Section 50‑17‑10). Toomer v. Witsell (U.S.S.C. 1948) 68 S.Ct. 1156, 334 U.S. 385, 92 L.Ed. 1460, rehearing denied 69 S.Ct. 12, 335 U.S. 837, 93 L.Ed. 389.

2. In general

State laws governing fishing by nonresidents and aliens in state’s territorial waters were pre‑empted by federal laws for licensing of vessels for fishing. Douglas v. Seacoast Products, Inc., 1977, 97 S.Ct. 1740, 431 U.S. 265, 52 L.Ed.2d 304.

**SECTION 50‑5‑315.** Saltwater fishing without a license prohibited; penalty.

 A person taking or attempting to take saltwater fish or operating a fishing vessel used in aid of taking saltwater fish for a commercial purpose without first acquiring the required commercial saltwater fishing license is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars nor more than five hundred dollars or imprisoned for not more than thirty days.

HISTORY: 2000 Act No. 245, Section 2.

Library References

Fish 10(1).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

**SECTION 50‑5‑320.** State Shellfish Ground licenses; fees.

 For the privilege of taking molluscan shellfish from state‑owned bottoms not under permit from the department for commercial purposes or in a quantity greater than those allowed for personal use as provided in this chapter, any licensed resident commercial saltwater fisherman must obtain a State Shellfish Ground resident license for a fee of seventy‑five dollars and any licensed nonresident commercial saltwater fisherman must obtain a State Shellfish Ground nonresident license for a fee of three hundred seventy‑five dollars.

HISTORY: 2000 Act No. 245, Section 2.

Library References

Fish 10(2).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

**SECTION 50‑5‑325.** Commercial equipment licenses and fees; specification of vessel on which used; tagging of equipment; penalties.

 (A) Commercial equipment, excluding vessels, used in the salt waters of this State and in fisheries for anadromous and catadromous species in any waters of this State must be licensed by the department. The owner and operator are responsible for obtaining a license:

 (1) to use a trawl or trawls, and the cost is one hundred twenty‑five dollars for residents and three hundred dollars for nonresidents;

 (2) to use traps, and the cost is twenty‑five dollars per fifty traps and one dollar for each trap thereafter for residents, and one hundred twenty‑five dollars per fifty traps and five dollars for each trap thereafter for nonresidents;

 (3) to use a channel net for taking shrimp, and the cost is two hundred fifty dollars for each net;

 (4) to use a gill net for taking shad, herring, or sturgeon, and the cost is ten dollars per one hundred net yards or a fraction thereof for residents and fifty dollars per one hundred net yards or a fraction thereof for nonresidents, and to use any other gill net or haul seine the cost is ten dollars per one hundred net feet or a fraction thereof for residents and fifty dollars per one hundred net feet or a fraction thereof for nonresidents;

 (5) to use hand‑held equipment to take shellfish, including tongs, rakes, and forks, at no cost;

 (6) to use a drag dredge, and the cost is seventy‑five dollars for residents and three hundred seventy‑five dollars for nonresidents;

 (7) to use other mechanically operated or boat assisted equipment, other than equipment used to set or retrieve licensed equipment, and the cost is one hundred twenty‑five dollars for residents and six hundred twenty‑five dollars for nonresidents;

 (8) to use trotlines with baits or hooks, and the cost is ten dollars for residents and fifty dollars for nonresidents for each line having not more than fifty baits or hooks per line;

 (9) to use any other commercial equipment, and the cost is ten dollars for each type for residents and fifty dollars per type for nonresidents.

 (B) The vessel on which a trawl or trawls is to be used must be specified on an application to the department and maintained current. The owner of a trawling vessel must furnish the name and address of the vessel master. Failure by the owner to supply or update the information required for the application so as to keep the information current at all times is a misdemeanor punishable as provided in this section.

 (C) No person under the age of sixteen years may operate a trawler as master.

 (D) No person may hold or apply for a separate license resulting in avoidance of a license fee differential specified in this section.

 (E) Each net required to be licensed must be licensed separately.

 (F) Other than vessels solely transiting the State in interstate commerce, any vessel on or from which commercial equipment is used or transported must display on its port and starboard sides current identification decals provided by the department.

 (G) The department may require an owner or operator who uses commercial equipment without being present to affix an identification number and tag issued by the department to each piece of commercial equipment while the commercial equipment is in use. The owner and operator are responsible for assuring the number and tag are affixed.

 (H) Only those types of commercial equipment specifically allowed by this chapter may be used for commercial purposes; provided, the department may grant permits for additional equipment types as stated in Section 50‑3‑340.

 (I) A person who violates subsection (A)(1), (A)(3), (A)(7), or (H) is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars nor more than five thousand dollars or imprisoned for not more than thirty days and must have his saltwater privileges suspended for twelve months.

 (J) A person who violates subsection (A)(2), (A)(4), (A)(6), (A)(8), (A)(9), (D), (E), (F), or (G) is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars nor more than five hundred dollars or imprisoned for not more than thirty days.

 (K) A person who violates subsection (A)(5), (B), or (C) is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty‑five dollars nor more than two hundred dollars or imprisoned for not more than thirty days.

 (L) Any commercial equipment which is used while not properly licensed, permitted, or tagged or any equipment used for commercial purposes not specifically allowed for commercial purposes by this chapter is considered contraband and must be seized by the department and disposed of as provided by law.

HISTORY: 2000 Act No. 245, Section 2; 2002 Act No. 342, Section 10.

Library References

Fish 10(1).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

Attorney General’s Opinions

Any inspector of the Division of Commercial Fisheries who out of malice or for other personal reasons makes a case on a violation of the license law without any facts showing a probable violation can be held liable for his acts. However, an inspector cannot be held personally liable in the seizure and holding of a shrimp or crab trawler when the seizure is based upon a reasonable factual situation showing violation of the license law. If an inspector makes a case against an operator based on a reasonable factual situation showing violation of the license law, he cannot be held liable for damages even though a judge or jury may acquit the operator (Decided under former Section 50‑17‑150). 1962‑63 Op. Atty Gen, No 1574, p 143.

**SECTION 50‑5‑330.** Recreational fishing exceptions; minnow traps for commercial purposes; retrieving unattended recreational equipment.

 (A) A person may fish or use the following in the salt waters of this State solely for recreational purposes without being commercially licensed:

 (1) shrimp seines;

 (2) hand‑operated tongs, rakes except bull rakes, and forks except seed forks, used to harvest shellfish;

 (3) hook and line or rod and reel;

 (4) minnow traps, drop nets, and dip nets;

 (5) cast nets; however, the use must comply with all other provisions of law;

 (6) no more than two crab traps;

 (7) no more than two trotlines with a cumulative total of not more than fifty hooks or baits;

 (8) no more than ten bush or pole lines with single hooks or baits.

 (B) A person may use a lawful gill net for other than commercial purposes without a commercial saltwater fishing license.

 (C) A person may use lawful minnow traps to take fish for a commercial purpose for use as bait without a commercial saltwater fishing license.

 (D) No person may retrieve any unattended recreational equipment used pursuant to this section unless the owner is present. A person may retrieve equipment with the written permission of the owner, but no fish may be retained.

 (E) A person who violates this section by fishing or using equipment in excess of the numbers allowed in this section or in violation of subsection (D) is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty‑five dollars nor more than five hundred dollars or imprisoned for not more than thirty days.

HISTORY: 2000 Act No. 245, Section 2; 2002 Act No. 342, Section 11.

Library References

Fish 10(1).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

**SECTION 50‑5‑335.** Channel net licenses; restrictions.

 (A) The department may grant no more than a cumulative total of sixty licenses for the use of channel nets in any one year. Applicants who held channel net licenses in the previous license year and who were not in violation of conservation laws or regulations must be given preference for licenses unless a violation results in a point suspension under Article 25, preference must not be denied solely for violations pertaining to:

 (1) marking or lighting of channel nets;

 (2) distance from the centerline of marked navigation channels if the distance is greater than 300 feet; or

 (3) distance between channel nets and other fishing devices.

 (B) An applicant must be sixteen years of age or older and a resident of this State, and licenses must be applied for in person. Only one license may be issued to a person.

HISTORY: 2000 Act No. 245, Section 2; 2002 Act No. 342, Section 12.

Library References

Fish 10(1).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

**SECTION 50‑5‑340.** Permits; use for commercial purposes and disposition of proceeds; violations and penalties.

 (A) The department may grant permits for taking, holding, and propagating fish or other marine resources excluding any marine mammals for:

 (1) exploratory;

 (2) experimental;

 (3) scientific;

 (4) educational; or

 (5) commercial display purposes.

 These permits may authorize activities which would otherwise be unlawful. These permits expire at the pleasure of the department, but permits granted for exploratory or experimental commercial purposes are limited to no more than two years and may not be renewed. Permits granted pursuant to this section may include conditions as to the areas, times, seasons, types of fishing equipment, species to be taken, catch reporting requirements, disposition of the catch, and other conditions the department determines necessary. No permittee may take fish or marine resources in violation of permit conditions.

 (B) The department may permit marine resources collected pursuant to exploratory, experimental, or commercial display permits to be used for commercial purposes. Marine resources collected pursuant to scientific or educational permits may not be used for personal consumption, but the resource or the proceeds of its sale may be used by the department for marketing and promotional purposes. Any product in excess of department needs may be disposed of according to law. The department may condition permits to allow sale of marine resources for public display.

 (C) A person who violates this section for a commercial purpose is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars and not more than two thousand five hundred dollars or imprisoned for not more than thirty days.

 (D) A person who violates this section for other than a commercial purpose is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars nor more than five hundred dollars or imprisoned for not more than thirty days.

HISTORY: 2000 Act No. 245, Section 2.

Library References

Fish 10(1).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

**SECTION 50‑5‑345.** Commercial license a condition of permit; exceptions; revocation.

 (A) In order to obtain any permit authorized under this chapter for taking marine resources except scientific, educational, and commercial display permits, a person must be a licensed commercial saltwater fisherman and hold all other required licenses.

 (B) Any permit granted may be revoked by the department for a violation of a condition of the permit or of a related conservation law.

HISTORY: 2000 Act No. 245, Section 2.

Library References

Fish 10(1).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

**SECTION 50‑5‑350.** Display of licenses, permits, and vessel’s identification decal; transfer of licenses; penalty.

 (A) While exercising the privilege of a license or permit the licensee, operator, or permittee must display or keep on his person the license or permit, and the license or permit must be produced on demand of department personnel or other law enforcement personnel.

 (B) Licenses and permits are not transferable; however, any licensed commercial saltwater fisherman may operate any licensed commercial equipment with written permission of the owner except:

 (1) channel nets; and

 (2) any commercial equipment licensed at the resident fee when the nonresident fee is greater if the operator is a nonresident.

 (C) The operator and the owner of a vessel used for commercial purposes must have aboard the required commercial equipment licenses and permits and display on its port and starboard sides the vessel’s identification decals provided by the department.

 (D) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty‑five dollars nor more than five hundred dollars or imprisoned for not more than thirty days.

HISTORY: 2000 Act No. 245, Section 2; 2002 Act No. 342, Section 13.

Library References

Fish 10(1).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

**SECTION 50‑5‑355.** Bait dealer licenses; fees; inspections; penalties.

 (A) For the privilege of taking or landing any saltwater species to be sold, bartered, or traded as bait or offered for sale as bait or selling or offering for sale as bait any saltwater species taken or landed in this State, a resident must first acquire a bait dealer license for twenty‑five dollars. A nonresident must acquire a bait dealer license for one hundred twenty‑five dollars. The department may inspect the business premises or floating equipment, or both, of a person applying for a bait dealer license and of a licensed bait dealer engaged in harvesting and selling bait. A person who takes, attempts to take, sells, or offers for sale any saltwater fish or fishery product for bait, except maricultured fish or fishery product in violation of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty‑five dollars nor more than five hundred dollars or imprisoned for not more than thirty days.

 (B) A licensed bait dealer who only sells fish or fishery products to be used solely as bait does not have to acquire a wholesale seafood dealer license.

HISTORY: 2000 Act No. 245, Section 2.

Library References

Fish 10(1).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

**SECTION 50‑5‑360.** Wholesale seafood dealer, peeler crab, and molluscan shellfish licenses; display of license; roadside vendors; brood stock exception; penalties.

 (A) Except as provided in subsection (G), a person or entity who buys, receives, or handles any live or fresh saltwater fish or any saltwater fishery products landed in this State regardless of where taken and packs, processes, ships, consigns, or sells such items at other than retail, and not solely as bait, must first obtain a wholesale seafood dealer license. A person who buys or receives such product solely from licensed wholesale seafood dealers is not required to obtain a wholesale seafood dealer license. The fee for a resident wholesale seafood dealer license is one hundred dollars, and the fee for a nonresident license is five hundred dollars. Each location at which products are to be packed, processed, shipped, consigned, or bought, or to be sold at wholesale must be a permanent, nonmobile establishment, and must be separately licensed. The department may require applicants to specify the activities in which the applicant intends to engage. The department may provide information provided in the application to the South Carolina Department of Agriculture and the South Carolina Department of Health and Environmental Control.

 (B) In order to engage in shedding peeler crabs, a person or entity must first be a licensed wholesale seafood dealer and be licensed for peeler crabs. The fee for a resident peeler crab license is an additional seventy‑five dollars, and the fee for a nonresident license is an additional three hundred seventy‑five dollars. Persons holding this license and engaged in shedding peeler crabs are authorized to receive, possess, and sell peeler crabs regardless of size.

 (C) A person or entity required to obtain a wholesale seafood dealer license who receives molluscan shellfish must first be licensed for molluscan shellfish. The fee for a resident to acquire a molluscan shellfish license is an additional ten dollars, and the fee for a nonresident is an additional fifty dollars. Prior to obtaining a molluscan shellfish license, a person or entity must complete any shellfish training required by regulations promulgated by the South Carolina Department of Health and Environmental Control pursuant to Section 44‑1‑140.

 (D) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars nor more than one thousand dollars or imprisoned for not more than thirty days.

 (E) The original or a legible copy of the wholesale seafood dealer license must be displayed where a wholesale seafood dealer or his agent is selling or offering for sale saltwater fisheries products. Any wholesale seafood dealer who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty‑five dollars nor more than five hundred dollars or imprisoned for not more than thirty days.

 (F) Roadside vendors, transient dealers, or peddlers operating from vehicles, roadside stands, or other temporary locations who sell or offer for sale saltwater fishery products are retail dealers who must comply with the retail license and tax requirements of state and local law. The person or entity must be a licensed wholesale seafood dealer or must have received or purchased the products from licensed wholesale seafood dealers or other licensed retailers and must comply with the requirements of Section 50‑5‑365 (A).

 (G) A person or entity that solely produces fish or fishery products reared as offspring from brood stock in captivity, or purchases such fish or fishery products solely is not required to have a wholesale seafood dealer license.

 (H)(1) Persons licensed under this section upon a fourth conviction within a period of three years of provisions related to:

 (a) possession of undersized fishery products;

 (b) improper marking or tagging of fishery products;

 (c) failure to report or maintain records; or

 (d) unlawful purchase of fishery products

 shall have his privilege to hold a wholesale seafood dealer license suspended for a period of twelve months.

 (2) Any person convicted of selling or offering for sale fish or fishery products while under suspension is guilty of a misdemeanor and, upon conviction, must be fined no less than one thousand dollars but not more than two thousand dollars or imprisoned for not more than thirty days and must have all his saltwater privileges suspended for three years.

 (3) For the purposes of this section, a conviction must occur on a separate date from other unlawful acts named in this section to be considered a prior offense.

HISTORY: 2000 Act No. 245, Section 2; 2002 Act No. 342, Section 14; 2017 Act No. 30 (S.465), Section 2, eff May 10, 2017.

Effect of Amendment

2017 Act No. 30, Section 2, in (C), added the third sentence, relating to completion of shellfish training required by the South Carolina Department of Health and Environmental Control.

Library References

Fish 10(1).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

**SECTION 50‑5‑365.** Licensing requirements applicable to sale or transportation of live or fresh fish or saltwater fishery products; penalties.

 (A) A person or entity who:

 (1) offers for sale any live or fresh fish or any saltwater fishery products, other than a licensed commercial saltwater fisherman licensed as a wholesale seafood dealer; or

 (2) transports live or fresh fish or any saltwater fishery products, other than a licensed commercial saltwater fisherman transporting his catch to a licensed wholesale seafood dealer;

 must have in his possession dated bills of lading, invoices, receipts, bills of sale, or similar documents showing the quantity of each species and type of saltwater fishery product being offered for sale or transported and the name of the licensed commercial saltwater fisherman or licensed wholesale seafood dealer from whom the products were purchased or received.

 (B) A person or entity including a licensed commercial saltwater fisherman who takes saltwater fishery products and sells the catch must sell the catch only to a wholesale seafood dealer licensed under this section or else he must be licensed as a wholesale seafood dealer under this section.

 (C) Without having obtained a valid wholesale seafood dealer license it is unlawful to:

 (1) buy or receive at other than retail live or fresh fish or any saltwater fishery products taken or landed in this State;

 (2) sell or offer fish or products for sale at other than retail or as allowed in subsection (B); or

 (3) transfer, ship, pack, or consign fish or products.

 (D) It is unlawful to purchase live or fresh fish or any saltwater products taken or landed in this State at other than retail from a person other than a licensed wholesale seafood dealer, provided:

 (1) the fish or product may be purchased for use as bait from a licensed bait dealer; and

 (2) a licensed wholesale seafood dealer may purchase from a licensed commercial saltwater fisherman.

 (E) It is unlawful for a person or entity to sell or offer for sale live or fresh fish or any saltwater fishery products or to transport live or fresh fish or any saltwater fishery products without having in possession dated bills of lading, invoices, receipts, bills of sale, or similar documents showing the quantity of each species and type of saltwater fishery products to be sold or transported and the name of the licensed commercial saltwater fisherman or licensed wholesale seafood dealer from whom the products were purchased or received. As it relates to operation of a vessel or vehicle, this subsection does not apply to a licensed commercial saltwater fisherman transporting his catch to a licensed seafood dealer.

 (F) Except as provided in Section 50‑5‑366, a person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars nor more than one thousand dollars or imprisoned for not more than thirty days.

HISTORY: 2000 Act No. 245, Section 2; 2002 Act No. 342, Section 15.

Library References

Fish 10(1).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

**SECTION 50‑5‑366.** Documents required to be in possession of persons selling shrimp; exceptions; conspiracies; penalties.

 (A) Between September 1 and December 15 a person or entity who sells or offers for sale shrimp must have in possession dated receipts, bills of sale, or similar documents showing:

 (1) the name of the licensed wholesale seafood dealer, or the licensed commercial fisherman if the seller is a licensed wholesale seafood dealer, from whom the shrimp were purchased or received;

 (2) the date on which the shrimp were purchased or received; and

 (3) the quantity of shrimp purchased or received.

 (B) Any person or entity violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars or more than five thousand dollars and may be imprisoned for not more than thirty days and must have his saltwater privileges suspended for twelve months, and the shrimp and its containers must be seized.

 (C) This section does not apply to a licensed commercial saltwater fisherman:

 (1) when selling his catch of shrimp to a licensed seafood dealer; or

 (2) who is a licensed wholesale seafood dealer.

 (D) Any person or entity who conspires with another to violate this section is guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand dollars or more than two thousand dollars and may be imprisoned for not more than thirty days and must have his saltwater privileges suspended for an additional twelve months.

HISTORY: 2002 Act No. 342, Section 16.

Library References

Fish 10(1).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

**SECTION 50‑5‑367.** Sale, offer, or purchase of shrimp taken over bait; penalty.

 (A) It is unlawful to sell or to offer for sale shrimp taken over bait.

 (B) Any person or entity violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than two thousand dollars or more than five thousand dollars and may be imprisoned for not more than thirty days and must have his saltwater privileges suspended for twelve months, and the shrimp, its containers, used in violation of this section must be seized.

 (C) It is unlawful to knowingly purchase shrimp taken over bait.

HISTORY: 2002 Act No. 342, Section 17.

Library References

Fish 13(3), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 40, 42 to 44.

**SECTION 50‑5‑370.** Purchase or removal from State for commercial purpose of saltwater fishery products not handled by licensed wholesale seafood dealer; penalty.

 (A) It is unlawful for a person not licensed as a wholesale seafood dealer to purchase, handle, barter, or trade or to attempt to purchase, handle, barter, or trade saltwater fishery products taken, landed, produced, or cultured in this State unless first handled by a licensed wholesale seafood dealer. As to the products specified, this section does not apply to:

 (1) persons receiving live bait from a licensed live bait dealer; or

 (2) persons or entities receiving cultured product from persons or entities that solely produce fish or fishery products reared as offspring from brood stock in captivity.

 (B) No person may remove from this State for a commercial purpose any saltwater fish or fishery products landed in this State unless the fish or product is accompanied by original, dated bills of lading, invoices, receipts, bills of sale, or similar documents showing the quantity of each type of saltwater fish or fishery product being transported and the name of the licensed wholesale seafood dealer or retail establishment from whom the products were purchased or received.

 (C) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars nor more than one thousand dollars or imprisoned for not more than thirty days.

HISTORY: 2000 Act No. 245, Section 2; 2002 Act No. 342, Section 18.

Library References

Fish 10(1).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

**SECTION 50‑5‑375.** Records of wholesale seafood dealers; inspection by department; penalties.

 (A) Every wholesale seafood dealer must keep and retain accurate records detailing the information required by the department for a period of not less than one year and shall open the records to the department for inspection upon reasonable demand.

 (B) Any wholesale seafood dealer who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty‑five dollars nor more than five hundred dollars or imprisoned for not more than thirty days. The provisions of this section do not supersede or replace any criminal sanctions for defrauding or attempting to defraud this State.

HISTORY: 2000 Act No. 245, Section 2; 2013 Act No. 7, Section 4, eff March 22, 2013.

Effect of Amendment

The 2013 amendment, in subsection (A), substituted “Every wholesale seafood dealer” for “Every seafood dealer required to be licensed”, and in subsection (B), inserted “wholesale” before “seafood dealer” in the first sentence.

Library References

Fish 10(1).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

**SECTION 50‑5‑380.** Information or report by licensee or permittee to take saltwater fishery product for commercial or scientific purpose; confidentiality; penalties.

 (A) A person or entity licensed or permitted by the department engaged in the take, distribution, or propagation of any saltwater fishery product for a commercial or scientific purpose must keep accurate records and may be required to provide accurate information and reports to the department on forms and by methods required by the department for the administration and enforcement of saltwater fishery laws and for fisheries management purposes. The department has concurrent authority with the United States to collect or require the submission of pertinent data specified pursuant to the federal Fishery Conservation and Management Act of 1976, as amended. Any information which directly or indirectly discloses the identity of a licensee or permittee or income amounts or trade secrets or other specialized methodologies for growing or taking or marketing saltwater fisheries products is not public information. Information on fisheries furnished by any source which is required by a state or federal law to be kept confidential is not subject to disclosure except when required by order of a court of competent jurisdiction.

 (B) Noncommercial information provided voluntarily to the department in support of a resource or management activity is likewise confidential. Nothing in this section may be construed as to limit the use of such information in enforcement of this chapter.

 (C) A person or entity licensed or permitted under this chapter who fails to make an accurate and timely report as required by the department is guilty of a misdemeanor and, upon conviction, the person must be fined not less than twenty‑five dollars nor more than two hundred dollars or imprisoned for not more than thirty days for each report, and the department must suspend the license or permit under which the report is required until accurate and complete reports are submitted to the department. Each delinquent or inaccurate report must be handled as a separate offense. The provisions of this section do not supersede or replace any criminal sanctions for defrauding or attempting to defraud this State.

 (D) The department shall collect and analyze data pertinent to protection, propagation, promotion, and management of marine resources.

HISTORY: 2000 Act No. 245, Section 2.

Library References

Fish 10(1).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

**SECTION 50‑5‑385.** Expiration of licenses and permits.

 Licenses authorized under this article expire on June 30th following their effective date. Permits expire under the terms of the individual permit.

HISTORY: 2000 Act No. 245, Section 2.

Library References

Fish 10(1).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

**SECTION 50‑5‑390.** Denial of or limitations on nonresident licenses.

 The department may deny issuance of any license or permit for commercial fishing equipment or activities to residents of any coastal state which denies the same privilege to South Carolina residents. The department may limit the type of fishing equipment used, seasons, and areas where nonresidents may fish in accordance with comparable limitations placed upon South Carolina fishermen by the nonresident’s state.

HISTORY: 2000 Act No. 245, Section 2.

Library References

Fish 10(1).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

ARTICLE 5

Use of Fishing Equipment

**SECTION 50‑5‑500.** Use of nets; penalties.

 (A) No net may be used in inshore salt waters except:

 (1) trawl nets;

 (2) gill nets for shad;

 (3) gill and dip nets for herring;

 (4) channel nets;

 (5) shrimp seines;

 (6) cast nets;

 (7) drop nets;

 (8) dip nets for landing or boating fish;

 (9) elver nets; and

 (10) gill nets not more than one hundred yards in length with a mesh size no smaller than three inches stretched mesh and up to five and one‑half inches stretched mesh in those areas of the inlets, sounds, and bays having direct connection to the ocean and designated by the department.

 (B) No net may be used in the Atlantic Ocean except:

 (1) shad nets;

 (2) sturgeon nets;

 (3) trawl nets;

 (4) shrimp seines;

 (5) cast nets;

 (6) drop nets;

 (7) dip nets for landing or boating fish;

 (8) gill nets not more than one hundred feet in length with a mesh size no smaller than three inches stretched mesh and up to, but not including, four and one‑half inches stretched mesh; and

 (9) haul seines.

 (C) Nothing in this section shall authorize use of a net in a location or at a time otherwise prohibited by law.

 (D) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars nor more than one thousand dollars or imprisoned for not more than thirty days.

HISTORY: 2000 Act No. 245, Section 3.

Library References

Fish 13(2), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 35, 42 to 44.

**SECTION 50‑5‑505.** Net use requirements and restrictions; mariculture impoundment net use permit.

 (A) A gill net used in the salt waters of this State must have at least one end buoy, international orange in color, which shows the name and license number of the owner. The operator of a gill net must be within five hundred feet of the net and have visual contact with the net at all times when deployed.

 (B) A trotline used in the inshore salt waters of this State must have at least one end buoy, international orange in color, which shows the name and license number of the owner. Recreational trotlines must be marked by the name and address of the owner in lieu of a license number. Any trotline used in the territorial sea must be marked with a buoy not less than twenty inches in diameter at each end, international orange in color, which floats in a manner to be clearly visible at all times.

 (C) A haul seine greater than one hundred feet in length must be marked with buoys, international orange in color, not less than twenty inches in diameter, which float in a manner to be clearly visible at all times.

 (D) No haul seine may be set within five hundred yards of any public fishing pier.

 (E) A buoy must be attached to the float line of any haul seine every three hundred feet, and a buoy must be attached to each end of any haul seine.

 (F) No haul seine may be set, hauled, or both, for a period exceeding one and one‑half hours without being fully returned to the beach.

 (G) The department may grant a permit to the owner of a mariculture impoundment or his authorized agent, either of whom must be a licensed commercial saltwater fisherman, to attach a net on the downstream side or outside of the outlet to harvest fish exiting the impoundment. The department may place conditions on the permit as to season, type of equipment, and times.

HISTORY: 2000 Act No. 245, Section 3; 2002 Act No. 342, Section 19.

Library References

Fish 13(3).

Westlaw Topic No. 176.

C.J.S. Fish Section 40.

**SECTION 50‑5‑510.** Channel nets; season; observation of use by department; restrictions as to possession; requirements applicable to use of net and possession of license; penalties.

 (A) The season for using channel nets shall be no longer than ninety days, and the department annually may set the channel net season between September 1 of any year and December 15 of the same year, inclusive.

 (B) A person licensed to use a channel net must allow designated department personnel to board or accompany any vessel on or from which a channel net is used to observe fishing activities, fishing gear, catch, and discards.

 (C) It is unlawful to possess a channel net aboard a boat during the closed channel net season.

 (D) It is unlawful to possess an unlicensed channel net aboard a boat.

 (E) The following requirements apply to channel nets used in the salt waters of this State:

 (1) the width at the mouth measured across the float or head line must not exceed eighty feet;

 (2) no channel net may be operated from a trawler;

 (3) a channel net must be marked with three buoys, international orange in color, constructed of solid foam or polyvinylchloride and not less than forty inches in circumference so as to be clearly visible at all times above the water’s surface, one attached to each staff and one having the name, address, and license number of the owner thereon attached outside of the tailbag or codend; and

 (4) a channel net set at night must be marked by a white light clearly visible from a distance of one‑quarter of a nautical mile.

 (F) It is unlawful for a person to set, retrieve, or remove catch from a channel net unless the properly licensed owner of the net is present and has his license in his immediate possession.

 (G) No channel net when set may be unattended for more than twenty‑four hours. Any channel net not fished for more than twenty‑four hours or which contains decomposed fish is contraband and must be seized and disposed of as provided in this chapter.

 (H) Any person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars nor more than one thousand dollars or imprisoned for not more than thirty days.

HISTORY: 2000 Act No. 245, Section 3; 2002 Act No. 342, Section 20.

CROSS REFERENCES

Fishing with a channel net, see S.C. Code of Regulations R. 123‑20.

Library References

Fish 13(3), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 40, 42 to 44.

**SECTION 50‑5‑515.** Channel nets to be used only in designated areas; Turtle Excluder Device requirements; penalties.

 (A) It is unlawful to use channel nets in the salt waters of this State, except in areas designated by the department.

 (B) The following apply to use of channel nets:

 (1) A functional soft or hard Turtle Excluder Device (TED) must be correctly installed in any channel net used in the waters of this State, except in areas specifically exempted in this section.

 (2) A soft TED must be constructed and installed so as to conform to the specifications of the National Marine Fisheries Service for soft TED’s.

 (3) A hard TED must conform to the following specifications:

 (a) the TED must be a single, rigid, oval deflector grid which is made of steel rod or pipe not less than one‑third inch diameter, aluminum rod or pipe not less than one‑half inch diameter, or fiberglass rod of comparable strength;

 (b) the TED must be installed so that it is at a thirty to forty‑five degree angle from the horizontal when in use;

 (c) the minimum inside diameter may not be less than thirty inches;

 (d) the minimum (slit) escape opening is thirty‑five inches;

 (e) the maximum spacing between the bars is four inches; there is no minimum spacing;

 (f) all “hard” TEDs must be top exiting only;

 (g) an optional, rectangular flap may be installed over the escape opening, provided it is attached only on its forward edge, does not extend more than four inches aft of the escape opening, is no wider than thirty‑six inches, and the mesh size is no larger than two inches stretch.

 (4) Turtle Excluder Devices are not required in channel nets used east of a line in Winyah Bay from the front range on Big Marsh Island, running southeast to day marker No. 18, thence running south southeast to red Nun Buoy No. 16. Any channel net used west of this line must use an approved Turtle Excluder Device. Turtle Excluder Devices are not required in channel nets used in North Santee Bay. However, the department may require TEDs in additional or all open areas if a significant threat to sea turtles is determined.

 (5) A sea turtle accidentally taken must be released immediately unless it is apparent that resuscitation is required. If resuscitation is required, the fisherman must retain the turtle until the turtle has recovered sufficiently and is capable of swimming.

 (C) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars nor more than one thousand dollars or imprisoned for not more than thirty days.

HISTORY: 2000 Act No. 245, Section 3; 2002 Act No. 342, Section 21.

Library References

Fish 13(3), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 40, 42 to 44.

**SECTION 50‑5‑520.** Channel net violations; forfeiture of license; seizure of equipment.

 In addition to any other penalty, a person who violates channel net laws forfeits the privilege to hold a channel net license for the next thirty open season days. Any boat, motor, boat trailer, and equipment used in aid of a violation related to channel nets or during the period for which the channel net license has been suspended or revoked must be seized and disposed of as provided in this chapter. This seizure requirement does not apply to requirements relating to lighting of channel nets, distances from the centerline of marked navigation channels if the distance is greater than three hundred feet, and distances between channel nets and other fishing devices.

HISTORY: 2000 Act No. 245, Section 3; 2002 Act No. 342, Section 22.

Library References

Fish 13(3), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 40, 42 to 44.

**SECTION 50‑5‑525.** Unlawful deployment of net; penalty.

 (A) It is unlawful to use or deploy any net or similar device or any part thereof including line and attached devices so that any part thereof extends more than one‑half the width of any saltwater creek, stream, channel, slough, or other salt water regardless of the stage of the tide, river stage, or method of net deployment.

 (B) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars nor more than one thousand dollars or imprisoned for not more than thirty days.

HISTORY: 2000 Act No. 245, Section 3.

Library References

Fish 13(3), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 40, 42 to 44.

**SECTION 50‑5‑530.** Placement of stationary and channel nets; time for setting and removal of channel nets; penalty.

 (A) It is unlawful to set any stationary nets except channel nets, within six hundred feet of any other net or device for taking fish except traps. It is unlawful to set any channel net within two hundred feet of any other channel net. No channel net may be set within four hundred feet of the centerline of a marked navigation channel. Any channel nets must be removed not later than the close of the channel net season. Lines, buoys, anchors, and associated equipment may be set no earlier than three days before the opening of the channel net season and must be removed not later than three days following the close of the channel net season.

 (B) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars nor more than one thousand dollars or imprisoned for not more than thirty days.

HISTORY: 2000 Act No. 245, Section 3.

Library References

Fish 13(3), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 40, 42 to 44.

**SECTION 50‑5‑535.** Placement of fishing equipment near public fishing pier or man‑made jetty equipped with fishing walkway.

 It is unlawful to set any fishing equipment within six hundred feet of a public fishing pier or man‑made jetty equipped with a fishing walkway in the waters of the Atlantic Ocean. The provisions of this section apply only to a fishing pier open to the public or man‑made jetty equipped with a fishing walkway open to the public.

HISTORY: 2000 Act No. 245, Section 3.

Library References

Fish 13(2).

Westlaw Topic No. 176.

C.J.S. Fish Section 35.

**SECTION 50‑5‑540.** Use of seine or gill net in state park; shrimp net exception.

 It is unlawful to use a seine or gill net in a lagoon, impoundment, or lake within the boundaries of a state park, except that lawful shrimp seines and cast nets for the taking of shrimp are allowed.

HISTORY: 2000 Act No. 245, Section 3.

Library References

Fish 13(2).

Westlaw Topic No. 176.

C.J.S. Fish Section 35.

NOTES OF DECISIONS

In general 1

1. In general

Section 50‑17‑422 prohibits the use of a gill net with a weight attached, even where the net is drift fished and not set in a fixed position (Decided under former Section 50‑17‑422). State v. Hendriks (S.C.App. 1995) 318 S.C. 562, 459 S.E.2d 520.

**SECTION 50‑5‑545.** Commercial blue crab traps; escape vent requirements; peeler trap exemption.

 (A) Except as provided in this section, from June 1 through March 14, a trap used for taking blue crab used for commercial purposes must have at least two unobstructed, circular escape vents (rings) which must be two and three‑eighths inches or greater in inside diameter and located on vertical surfaces. At least one vent (ring) must be in the upper chamber. All vents (rings) must be within two inches of the horizontal partition or the base of the trap.

 (B) A trap used for taking blue crab constructed of a single chamber must have at least one two and three‑eighths inch or larger inside diameter escape vent (ring) located on a vertical surface within two inches of the base of the trap. Peeler traps are exempt year round.

HISTORY: 2000 Act No. 245, Section 3; 2002 Act No. 342, Section 23; 2013 Act No. 7, Section 5, eff March 22, 2013.

Effect of Amendment

The 2013 amendment, in subsection (A), substituted “a trap used for taking blue crab” for “a crab trap”, and in subsection (B), substituted “A trap used for taking blue crab” for “Crab traps”.

Library References

Fish 13(3).

Westlaw Topic No. 176.

C.J.S. Fish Section 40.

**SECTION 50‑5‑550.** Trap buoy size, material, catch release feature and identification tag or other identifying information requirements; seizure of unmarked traps.

 (A) Other than minnow traps not used for a commercial purpose, and traps with lines attached to a shore based structure and not used for a commercial purpose, each trap set in the waters of this State must have attached to it a buoy made of solid, buoyant material which does not sink if punctured or if cracked. A spherical or nonspherical primary buoy must be attached to each trap. A nonspherical buoy must be at least ten inches in length and five inches in diameter or width. A spherical buoy must be at least six inches in diameter. No plastic, metal, or glass bottles or jugs may be used as a buoy, and no buoy attached may be made of a material which could sink if punctured or cracked. No floating line or rope may be used. Minnow traps used for commercial purposes must utilize floats no smaller than five inches marked with the operator’s name.

 (B) The department may require that each trap set in the salt waters of this State have catch release features and identification tags designated by the department.

 (C) Each licensed commercial saltwater fisherman licensed to fish traps must acquire an identification number assigned by the department. No person may acquire or attempt to acquire more than one identification number. The assigned identification number must be burned or branded on each primary trap buoy in numerals of at least two inches in height, must be clearly legible, must be in a color contrasting that of the buoy, and must be unobstructed and visible when the buoy is at rest in the water.

 (D) The buoy of traps used by individuals for personal use as provided by law in lieu of the identification number required on commercial traps must bear the owner’s name and current address and must be yellow in color.

 (E) A trap not marked in accordance with this section is contraband and must be seized and disposed of as provided in this chapter.

HISTORY: 2000 Act No. 245, Section 3; 2002 Act No. 342, Section 24; 2013 Act No. 7, Section 6, eff March 22, 2013.

Effect of Amendment

The 2013 amendment, in subsection (A), deleted “and bait dealer license number” from the end.

Library References

Fish 13(3).

Westlaw Topic No. 176.

C.J.S. Fish Section 40.

**SECTION 50‑5‑555.** Trap placement and attention requirements; department inspection, removal, seizure, and disposal.

 (A) No trap may be placed within six hundred feet of a public boat ramp or launching area.

 (B) No trap may be set so as to leave any portion of the trap dry at any stage of the tide.

 (C) No trap may be unattended for more than five days. Without having written permission of the owner, no person may retrieve or remove catch from any trap the buoy of which is marked with a number assigned by the department to another person.

 (D) No trap may be set so as to obstruct navigation in any creek or other navigable water course, access point, or mooring point. A trap determined by the department to be in violation of this section may be removed by the department and disposed of as provided in this chapter.

 (E) The department may inspect traps for compliance with this section at any time. If the department finds any trap:

 (1) set in violation of this section;

 (2) containing excessive dead catch or only dead catch; or

 (3) with buoy, line, or trap displaying excessive marine growth, the trap is contraband and must be seized and disposed of as provided in this chapter .

HISTORY: 2000 Act No. 245, Section 3.

Library References

Fish 13(3).

Westlaw Topic No. 176.

C.J.S. Fish Section 40.

**SECTION 50‑5‑560.** Blue crab traps on Cooper River.

 Notwithstanding the provisions of Chapter 13 of this title, traps used for taking blue crabs may be fished on Cooper River upstream to the confluence of the east and west branches of Cooper River; provided that all requirements of this chapter are complied with.

HISTORY: 2000 Act No. 245, Section 3.

Library References

Fish 13(3).

Westlaw Topic No. 176.

C.J.S. Fish Section 40.

**SECTION 50‑5‑565.** Time restrictions for placement of commercial traps.

 It is unlawful to set, move, fish, retrieve, or remove catch from traps during the following times:

 (1) from 9:00 p.m. until 5:00 a.m. the following day, local time, from April 1 through September 15; and

 (2) from 7:00 p.m. until 6:00 a.m the following day, local time, from September 16 through March 31.

 This prohibition does not apply to recreational fishermen using properly marked personal traps.

HISTORY: 2000 Act No. 245, Section 3.

Library References

Fish 13(3).

Westlaw Topic No. 176.

C.J.S. Fish Section 40.

**SECTION 50‑5‑570.** Use of live bait on lines with more than three hooks.

 It is unlawful to use live bait in the salt waters of this State on lines having more than three hooks.

HISTORY: 2000 Act No. 245, Section 3.

Library References

Fish 13(2).

Westlaw Topic No. 176.

C.J.S. Fish Section 35.

**SECTION 50‑5‑575.** Violation of provision for which no penalty provided; seizure and disposal of unlawful devices.

 (A) A person who violates a provision of this article for which no penalty is specified is guilty of a misdemeanor and, upon conviction, must be fined not less than fifty dollars nor more than five hundred dollars or imprisoned for not more than thirty days.

 (B) Any unlawful fishing device or any fishing device used in an unlawful manner is contraband and must be seized and disposed of as provided by law.

HISTORY: 2000 Act No. 245, Section 3.

Library References

Fish 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 42 to 44.

**SECTION 50‑5‑580.** Gigging for fish in saltwaters of Georgetown County.

 It is unlawful in Georgetown County for a person to gig for fish in saltwaters from the northern tip of North Island to the northern tip of Magnolia Beach during the daylight hours. Any person violating the provisions of this section, upon conviction, shall be fined not more than one hundred dollars or imprisoned for not more than thirty days.

HISTORY: 2000 Act No. 245, Section 23.

Library References

Fish 13(2).

Westlaw Topic No. 176.

C.J.S. Fish Section 35.

**SECTION 50‑5‑581.** Gigging for flounder.

 It is unlawful for a person to gig for flounder in the salt waters of this State during daylight hours. For the purposes of this section, “daylight hours” means that period of time between official sunrise and official sunset. Any person violating the provisions of this section, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days. For the purposes of this section, gigging does not include underwater spear fishing.

HISTORY: 2013 Act No. 14, Section 1, eff April 23, 2013.

ARTICLE 7

Trawling

**SECTION 50‑5‑700.** Trawling prohibited.

 It is unlawful to trawl in the waters of this State except as allowed in this chapter.

HISTORY: 2000 Act No. 245, Section 4.

Library References

Fish 13(2).

Westlaw Topic No. 176.

C.J.S. Fish Section 35.

**SECTION 50‑5‑705.** Trawling Zone established.

 The following General Trawling Zone is established: Based on National Ocean Service (NOS) chart 11513 (22nd edition, July 12, 1997), that area seaward of a line, termed the inshore trawl boundary, beginning at the point of intersection of the north jetty (Oyster Bed Island Training Wall) of the Savannah River and the shoreline (“shoreline” herein defined as the line of Mean High Water) of Oyster Bed Island at latitude 32° 02.35’ N, longitude 080° 53.05’ W; thence following the shoreline of Oyster Bed Island to the point at the mouth of the Wright River at latitude 32° 02.92’ N, longitude 080° 54.62’ W; thence following a straight line northeasterly to the southernmost point of Turtle Island at latitude 32° 03.08’ N, longitude 080° 54.42’ W; thence following the shoreline of Turtle Island to the point at the mouth of the New River at latitude 32° 04.80’ N, longitude 080° 52.97’ W; thence following a straight line easterly to the southernmost point of Daufuskie Island (Bloody Point) at latitude 32° 04.92’ N, longitude 080° 52.60’ W; thence following the shoreline of Daufuskie Island to the point at latitude 32° 07.30’ N, longitude 080° 50.40’ W; thence following a straight line easterly across Calibogue Sound to the point on Hilton Head Island at latitude 32° 07.30’ N, longitude 080° 49.50’ W; thence following the shoreline of Hilton Head Island and crossing the mouths of Folly and Coggin Creeks to the northernmost point of Hilton Head Island at latitude 32° 16.26’ N, longitude 080° 43.72’ W; thence following a straight line westerly to a green square beacon marked “5” at latitude 32° 16.10’ N, longitude 080° 44.14’ W; thence following a straight line northerly to a red triangular beacon marked “4” at latitude 32° 16.38’ N, longitude 080° 44.14’ W; thence following a straight line easterly to a red nun or conical buoy marked “2” at latitude 32° 16.40’ N, longitude 080° 42.40’ W; thence following a straight line easterly to the point on Parris Island Spit at latitude 32° 16.72’ N, longitude 080° 40.00’ W (approximate location of flashing red day marker No. 246); thence following a straight line easterly to a red nun or conical buoy marked “26” at the mouth of the Beaufort River at latitude 32° 16.75’ N, longitude 080° 39.20’ W; thence following a straight line easterly to the point at the mouth of Station Creek at latitude 32° 16.72’ N, longitude 080° 38.55’ W; thence following the shorelines of Bay Point and St. Phillips Islands and crossing the mouth of Morse Island Creek to the point on St. Phillips Island at latitude 32° 17.00’ N, longitude 080° 35.30’ W; thence following a straight line easterly across Trenchards Inlet to the point at latitude 32° 17.00’ N, longitude 080° 34.75’ W; thence following the shorelines of Capers and Pritchards Islands and crossing the mouths of Capers, Pritchards, and Skull Inlets to the southernmost point of Fripp Island at latitude 32° 18.40’ N, longitude 080° 30.05’ W; thence following the shoreline of Fripp Island to its easternmost point at latitude 32° 19.35’ N, longitude 080° 27.18’ W; thence following a straight line northerly across Fripp Inlet to the southernmost point of Hunting Island at latitude 32° 20.32’ N, longitude 080° 27.28’ W; thence following the shoreline of Hunting Island to its northernmost point at the mouth of Johnson Creek at latitude 32° 23.50’ N, longitude 080° 25.80’ W; thence following a straight line northerly to the point on Harbor Island at latitude 32° 24.10’ N, longitude 080° 25.63’ W; thence following the shoreline of Harbor Island to the eastern end of the U.S. Highway 21 swing bridge at Harbor River at latitude 32° 24. 20’ N, longitude 080° 27.00’ W; thence to the center of the swing span of the bridge at latitude 32° 24.26’ N, longitude 080° 27.16’ W; thence following a straight line northerly to the beacon on Combahee Bank at latitude 32° 28.07’ N, longitude 080° 26.06’ W; thence, based on NOS chart 11521 (22nd edition, January 20, 1996), following a straight line northeasterly to the point on Otter Island at the mouth of the Ashepoo River at latitude 32° 29.25’ N, longitude 080° 25.15’ W; thence following the shoreline of Otter Island to the point at the mouth of Fish Creek at latitude 32° 29.00’ N, longitude 080° 23.24’ W; thence following a straight line easterly across the South Edisto River to the southernmost point (Bay Point) of Edisto Beach at latitude 32° 28.66’ N, longitude 080° 20.18’ W; thence following the shorelines of Edisto and Edingsville Beaches and Botany Bay Island and crossing the mouths of Jeremy, Frampton, and Townsend Inlets to the point on Botany Bay Island at latitude 32° 33.50’ N, longitude 080° 12.00’ W; thence following a straight line easterly across the North Edisto River to the southernmost point on Seabrook Island at latitude 32° 33.55’ N, longitude 080° 10.50’ W; thence following the shorelines of Seabrook and Kiawah Islands and crossing the mouth of Captain Sams Inlet to the point on Kiawah Island (Sandy Point) at latitude 32° 37.18’ N, longitude 079° 59.65’ W; thence following a straight line northeasterly across Stono Inlet to the southernmost point of Folly Island at latitude 32° 38.40’ N, longitude 079° 58.36’ W; thence following the shoreline of Folly Island to its easternmost point at latitude 32° 41.10’ N, longitude 079° 53.17’ W; thence following a straight line northerly across Lighthouse Inlet to the Morris Island lighthouse (abandoned) at latitude 32° 41.70’ N, longitude 079° 53.03’ W; thence following a straight line on a geodetic azimuth of 285 degrees to the shoreline of Morris Island; thence following the shoreline of Morris Island northerly to its point of intersection with the south jetty for Charleston Harbor at latitude 32° 43.91’ N, longitude 079° 52.18’ W; thence following the submerged jetty easterly to the point where its emergent portion begins at latitude 32° 43.85’ N, longitude 079° 50.92’ W; thence following a straight line northeasterly across the Charleston Harbor channel to the point where the emergent north jetty begins at latitude 32° 44.57’ N, longitude 079° 50.00’ W; thence following the submerged north jetty northerly to its point of intersection with Sullivans Island at latitude 32° 45.46’ N, longitude 079° 50.40’ W; thence following the shoreline of Sullivans Island, the seaward edge of the Breach Inlet bridge, and the shoreline of the Isle of Palms to its easternmost point at latitude 32° 48.90’ N, longitude 079° 43.09’ W; thence following a straight line northerly across Dewees Inlet to the point on Dewees Island at latitude 32° 49.65’ N, longitude 079° 43.27’ W; thence following the shoreline of Dewees Island to the point at latitude 32° 50.70’ N, longitude 079° 42.03’ W; thence following a straight line northerly across Capers Inlet to the southernmost point of Capers Island at latitude 32° 51.10’ N, longitude 079° 41.87’ W; thence following the shoreline of Capers Island to the point at latitude 32° 52.57’ N, longitude 079° 39.30’ W; thence following a straight line easterly across Price Inlet to the southernmost point of Bull Island at latitude 32° 52.57’ N, longitude 079° 38.95’ W; thence, based on NOS chart 11531 (19th edition, April 19, 1997), following the shoreline of Bull Island to its northernmost point at latitude 32° 55.98’ N, longitude 079° 34.48’ W; thence following a straight line northeasterly to the point at latitude 33° 00.38’ N, longitude 079° 29. 43’ W; thence following a straight line in a northeasterly direction along Raccoon Key, thence crossing the mouth of Raccoon Creek to the point at latitude 33° 01.00’ N, longitude 079° 25.25’ W; thence following a straight line easterly across Key Inlet to the point of Cape Island at latitude 33° 00.46’ N, longitude 079° 24.49’ W; thence following the shoreline of Cape Island to the point at latitude 33° 00.61’ N, longitude 079° 21.90’ W (accretion in this area not shown on the nautical chart); thence following a straight line northeasterly to the point at latitude 33° 02.21’ N, longitude 079° 21.04’ W, thence following a straight line northeasterly across Cape Romain Harbor to the point on Murphy Island at latitude 33° 05.46’ N, longitude 079° 19.72’ W; thence following the shoreline of Murphy Island northeasterly to the point at latitude 33° 07.00’ N, longitude 079° 16.97’ W; thence following a straight line easterly across the South Santee River to the southwesternmost point of Cedar Island at latitude 33° 07.00’ N, longitude 079° 16.58’ W; thence following the shoreline of Cedar Island to the point at latitude 33° 08.36’ N, longitude 079° 14.71’ W; thence, based on NOS chart 11532 (18th edition, June 1, 1996), following a straight line northerly across the North Santee River to the southernmost point of Cane Island at latitude 33° 08.92’ N, longitude 079° 14.92’ W; thence following the eastern shoreline of Cane Island and crossing the mouth of an unnamed creek to the easternmost point of Crow Island at latitude 33° 10.04’ N, longitude 079° 15.34’ W; thence following a straight line northeasterly across North Santee Bay to the point on South Island at the south side of the mouth of Beach Creek at latitude 33° 10.43’ N, longitude 079° 14.60’ W; thence following the shoreline of South Island to its southernmost point (Santee Point) at latitude 33° 08.06’ N, longitude 079° 14.38’ W; thence following the shorelines of South and Sand Islands to the point of intersection with the south jetty for Winyah Bay at latitude 33° 11.43’ N, longitude 079° 11.00’ W; thence following the shorelines of Sand and South Islands to the point on South Island at latitude 33° 13.82’ N, longitude 079° 12.16’ W; thence following a straight line easterly passing approximately through the charted positions of a green light buoy marked “15” and a red nun or conical buoy marked “16” to the point on North Island at latitude 33° 14. 00’ N, longitude 079° 11.32’ W; thence following the shoreline of North Island southerly and easterly to its intersection with the north jetty for Winyah Bay at latitude 33° 12.53’ N, longitude 079° 10.43’ W; thence, based on NOS chart 11535 (11th edition, April 18, 1992), following the shoreline of North Island to the point at latitude 33° 19.03’ N, longitude 079° 09.57’ W; thence following a straight line northerly across North Inlet to the point on the south end of Debidue DeBordieu Island at latitude 33° 19.98’ N, longitude 079° 09.60’ W; thence following the shorelines of Debidue DeBordieu Island, Pawley’s Island, Litchfield Beach, and Magnolia Beach and crossing the mouths of Pawley’s Inlet and Midway Inlet to the point on the south jetty for Murrells Inlet at latitude 33° 31.60’ N, longitude 079° 01.90’ W; thence following a straight line northerly across Murrells Inlet to the point of intersection with the north jetty at latitude 33° 31.96’ N, longitude 079° 01.77’ W; thence following the shoreline northeasterly and crossing the mouths of Singleton Swash, White Point Swash, and Hog Inlet to the point of intersection with the south jetty for Little River on the eastern end of Waites Island at latitude 33° 50.91’ N, longitude 078° 33.21’ W; thence following a straight line easterly across Little River Inlet to the point on the north jetty on Bird Island at latitude 33° 50.97’ N, longitude 078° 32.62’ W; thence following the shoreline of Bird Island to its intersection with the South Carolina‑North Carolina boundary line at latitude 33° 51.09’ N, longitude 078° 32.50’ W.

HISTORY: 2000 Act No. 245, Section 4; 2013 Act No. 7, Section 7, eff March 22, 2013.

Effect of Amendment

The 2013 amendment revised the boundaries of certain trawling zones.

Library References

Fish 13(2).

Westlaw Topic No. 176.

C.J.S. Fish Section 35.

**SECTION 50‑5‑710.** Restrictions on trawling for shrimp in General Trawling Zone; prohibition on trawling outside General Trawling Zone; penalties; seizure and disposition of contraband.

 (A) Except as otherwise provided by law, it is lawful to trawl for shrimp or prawn in the General Trawling Zone only during those times and seasons set by the department. It is unlawful for a person to trawl inside the General Trawling Zone:

 (1) one‑quarter nautical mile or less during the closed season;

 (2) more than one‑quarter nautical mile during the closed season;

 (3) one‑quarter nautical mile or less at a time ten minutes or less before daily opening time or ten minutes or less after daily closing time during the open season;

 (4) more than one‑quarter nautical mile at a time more than ten minutes before daily opening or ten minutes after daily closing times during the open season;

 (5) more than one‑quarter nautical mile at a time ten minutes or less before daily opening time or ten minutes or less after daily closing time during the open season; or

 (6) one‑quarter nautical mile or less at a time more than ten minutes before daily opening time or after daily closing time during the open season.

 A person who violates a provision of this subsection is guilty of a misdemeanor and, upon conviction, must be fined not less than two thousand dollars and not more than five thousand dollars or imprisoned for not more than thirty days.

 Any catch aboard or under control of the fisherman or other person at the time of the violation is contraband and must be seized and disposed of as provided in this chapter.

 (B) Except as otherwise provided by law, it is unlawful to trawl in the waters of this State outside the General Trawling Zone. A person who violates this subsection by trawling outside the General Trawling Zone:

 (1) one hundred yards or less during the open season is guilty of a misdemeanor and, upon conviction, must be fined not less than two thousand dollars and not more than five thousand dollars or imprisoned for not more than thirty days;

 (2) more than one hundred yards during the open season is guilty of a misdemeanor and, upon conviction, must be fined not less than two thousand dollars and not more than five thousand dollars or imprisoned for not more than thirty days;

 (3) during the closed season is guilty of a misdemeanor and, upon conviction, must be fined not less than two thousand dollars and not more than five thousand dollars or imprisoned for not more than thirty days; or

 (4) one‑half nautical mile distance or greater from the nearest point of the General Trawling Zone boundary is guilty of a misdemeanor and, upon conviction, must be fined five thousand dollars or imprisoned for not more than thirty days and must have his saltwater privileges suspended for two years in addition to any other suspension under this chapter.

 Any catch aboard or under the control of the fisherman or other person at the time of a violation of this subsection is contraband and must be seized and disposed of as provided in this chapter.

HISTORY: 2000 Act No. 245, Section 4; 2002 Act No. 342, Section 25.

Library References

Fish 13(2).

Westlaw Topic No. 176.

C.J.S. Fish Section 35.

**SECTION 50‑5‑715.** Trawling restriction areas within General Trawling Zone.

 (A) In the following areas trawling is restricted in the General Trawling Zone.

 (1) Based on National Ocean Service (NOS) chart 11513 (22nd edition, July 12, 1997), all that area bounded by a closed line beginning at the point on the shoreline on the southwestern end of Hilton Head Island at latitude 32° 07.30’ N, longitude 080° 49.50’ W; thence following the shoreline of Hilton Head Island to the point on its northeastern end at latitude 32° 14.20’ N, longitude 080° 40.65’ W; thence northeasterly, following a straight line on a geodetic azimuth of 065 degrees, to the point one‑quarter nautical mile seaward from the shoreline; thence southeasterly, southwesterly, and northerly following a line that is one‑quarter nautical mile seaward of the shoreline to the point at the intersection of said line with the inshore trawl boundary across Calibogue Sound; thence following the inshore trawl boundary easterly to the point of beginning.

 (2) Based on NOS chart 11513 (22nd edition, July 12, 1997), all that area bounded by a closed line beginning at the southernmost point of Fripp Island at latitude 32° 18.40’ N, longitude 080° 30.05’ W; thence following the shoreline of Fripp Island to its easternmost point at latitude 32° 19.35’ N, longitude 080° 27.18’ W; thence southeasterly, following a straight line on a geodetic azimuth of 155 degrees, to the point one‑quarter nautical mile seaward from the shoreline; thence southwesterly following a line that is one‑quarter nautical mile seaward of the shoreline to the point at the intersection of said line and a straight line with a geodetic azimuth of 155 degrees from the point of beginning; thence following a straight line northwesterly to the point of beginning.

 (3) Based on NOS chart 11513 (22nd edition, July 12, 1997), all that area bounded by a closed line beginning at the southernmost point of Hunting Island at latitude 32° 20.32’ N, longitude 080° 27.28’ W; thence following the shoreline of Hunting Island to its northernmost point at latitude 32° 23.50’ N, longitude 080° 25.80’ W; thence southeasterly, following a straight line on a geodetic azimuth of 100 degrees, to the point one‑quarter nautical mile seaward from the shoreline; thence southwesterly following a line that is one‑quarter nautical mile seaward of the shoreline to the point at the intersection of said line and the inshore trawl boundary across Fripp Inlet; thence following the inshore trawl boundary northerly to the point of beginning.

 (4) Based on NOS chart 11521 (22nd edition, January 20, 1996), all that area bounded by a closed line beginning at the southernmost point (Bay Point) of Edisto Beach at latitude 32° 28.66’ N, longitude 080° 20.18’ W; thence following the shoreline of Edisto Beach to the point at latitude 32° 30.19’ N, longitude 080° 17.78’ W (nearest point on the shoreline to where S.C. Highway 174 enters the Town of Edisto Beach); thence southeasterly, following a straight line on a geodetic azimuth of 145 degrees, to the point one‑half nautical mile seaward from the shoreline; thence southwesterly and northerly following a line that is one‑half mile seaward of the shoreline to the point at the intersection of said line and the inshore trawl boundary across the South Edisto River; thence following the inshore trawl boundary easterly to the point of beginning.

 (5) Based on NOS chart 11521 (22nd edition, January 20, 1996), all that area bounded by a closed line beginning at the point on Edisto Beach at latitude 32° 30.19’ N, longitude 080° 17.78’ W (nearest point on the shoreline to where S. C. Highway 174 enters the Town of Edisto Beach); thence northeasterly following the shorelines of Edisto and Edingsville Beaches and crossing the mouth of Jeremy Inlet to the point on Edingsville Beach at latitude 32° 31.42’ N, longitude 080° 16.00’ W; thence southeasterly, following a straight line on a geodetic azimuth of 145 degrees, to the point one‑quarter nautical mile seaward from the shoreline; thence southwesterly following a line that is one‑quarter nautical mile seaward of the shoreline to the point at the intersection of said line and a straight line with a geodetic azimuth of 145 degrees from the point of beginning; thence following a straight line northwesterly to the point of beginning.

 (6) Based on NOS chart 11521 (22nd edition, January 20, 1996), all that area bounded by a closed line beginning at the southernmost point of Seabrook Island at latitude 32° 33.55’ N, longitude 080° 10.50’ W; thence following the shorelines of Seabrook Island and Kiawah Island and crossing the mouth of Captain Sam’s Inlet to the point on Kiawah Island (Sandy Point) at latitude 32° 37.18’ N, longitude 079° 59.65’ W; thence southerly, following a straight line on a geodetic azimuth of 180 degrees, to the point one‑quarter nautical mile seaward from the shoreline; thence southwesterly and northwesterly following a line that is one‑quarter nautical mile seaward of the shoreline to the point at the intersection of said line and the inshore trawl boundary crossing the North Edisto River; thence following the inshore trawl boundary easterly to the point of beginning.

 (7) Based on NOS chart 11521 (22nd edition, January 20, 1996), all that area bounded by a closed line beginning at the southernmost point of Folly Island at latitude 32° 38.40’ N, longitude 079° 58.36’ W; thence following the shoreline of Folly Beach to the point at latitude 32° 39.28’ N, longitude 079° 56.37’ W (location of the Folly Beach—Edwin S. Taylor Fishing Pier); thence southeasterly, following a straight line on a geodetic azimuth of 150 degrees, to the point one‑quarter nautical mile seaward from the shoreline; thence southwesterly following a line that is one‑quarter nautical mile seaward of the shoreline to the point at the intersection of said line and the inshore trawl boundary across Stono Inlet; thence following the inshore trawl boundary northeasterly to the point of beginning.

 (8) Based on NOS chart 11521 (22nd edition, January 20, 1996), all that area bounded by a closed line beginning at the point on the shoreline of Folly Island at latitude 32° 39.28’ N, longitude 079° 56.37’ W (location of the Folly Beach—Edwin S. Taylor Fishing Pier); thence northeasterly following the shoreline to the easternmost point of Folly Island at latitude 32° 41.10’ N, longitude 079° 53.17’ W; thence following the inshore trawl boundary northerly to the point one‑half nautical mile seaward of the shoreline; thence southeasterly and southwesterly following a line that is one‑half nautical mile seaward of the shoreline to the point at the intersection of said line and a straight line with a geodetic azimuth of 150 degrees from the point of beginning; thence following a straight line northwesterly to the point of beginning.

 (9) Based on NOS chart 11521 (22nd edition, January 20, 1996), all that area bounded by a closed line beginning at the point of intersection of the submerged north jetty of Charleston Harbor with the shoreline of Sullivans Island at latitude 32° 45.46’ N, longitude 079° 50.40’ W; thence northeasterly following the shoreline of Sullivans Island, the seaward edge of the Breach Inlet bridge, and the shoreline of Isle of Palms to its easternmost point at latitude 32° 48.90’ N, longitude 079° 43.09’ W; thence southeasterly, following a straight line on a geodetic azimuth of 140 degrees, to the point one‑half nautical mile seaward of the shoreline; thence southwesterly following a line that is one‑half nautical mile seaward of the shoreline to the point at the intersection of said line and the inshore trawl boundary (the submerged north jetty of Charleston Harbor); thence following the inshore trawl boundary northerly to the point of beginning.

 (10) Based on NOS chart 11535 (11th edition, April 18, 1992), all that area bounded by a closed line beginning at the southernmost point of Pawleys Island at latitude 33° 23.70’ N, longitude 079° 08.48’ W; thence following the shorelines of Pawleys Island, Litchfield Beach, and Magnolia Beach and crossing the mouth of Midway Inlet to the point of intersection with the south jetty for Murrells Inlet at latitude 33° 31.60’ N, longitude 079° 01.90’ W; thence following a straight line northerly across Murrells Inlet to the point on the north jetty at latitude 33° 31.96’ N, longitude 079° 01.77’ W; thence northeasterly following the shoreline to the point on Garden City Beach at latitude 33° 34.34’ N, longitude 079° 00.13’ W; thence southeasterly, following a straight line on a geodetic azimuth of 125 degrees to the point one‑half nautical mile seaward of the shoreline; thence southwesterly following a line that is one‑half nautical mile seaward of the shoreline to the point at the intersection of said line and a straight line with a geodetic azimuth of 110 degrees from the point of beginning; thence following a straight line northwesterly to the point of beginning.

 (11) Based on NOS chart 11535 (11th edition, April 18, 1992), all that area bounded by a closed line beginning at the point on the shoreline on Garden City Beach at latitude 33° 34.34’ N, longitude 079° 00.13’ W; thence following the shoreline northeasterly and crossing the mouths of Singleton Swash, White Point Swash, and Hog Inlet to the point of intersection with the south jetty for Little River on the eastern end of Waites Island at latitude 33° 50.91’ N, longitude 078° 33.21’ W; thence following a straight line easterly across Little River Inlet to the point on the north jetty on Bird Island at latitude 33° 50.97’ N, longitude 078° 32.62’ W; thence following the shoreline of Bird Island to its intersection with the South Carolina‑North Carolina boundary line at latitude 33° 51.09’ N, longitude 078° 32.50’ W; thence southeasterly following the state‑boundary line to the point one‑half nautical mile seaward of the shoreline; thence southwesterly following a line that is one‑half nautical mile seaward of the shoreline to the point at the intersection of said line and a straight line with a geodetic azimuth of 125 degrees from the point of beginning; thence following a straight line northwesterly to the point of beginning.

 (12) Based on NOS chart 11532 (18th edition, June 1, 1996), all that area of North Santee Bay bounded by a closed line beginning at the point on the shoreline of Cedar Island at latitude 33° 08.36’ N, longitude 079° 14.71’ W; thence following a straight line northerly across the North Santee River to the southernmost point of Cane Island at latitude 33° 08.92’ N, longitude 079° 14.92’ W; thence following the eastern shoreline of Cane Island and crossing the mouth of an unnamed creek to the easternmost point of Crow Island at latitude 33° 10.04’ N, longitude 079° 15.34’ W; thence following a straight line northeasterly across North Santee Bay to the point on South Island at the south side of the mouth of Beach Creek at latitude 33° 10.43’ N, longitude 079° 14.60’ W; thence following the shoreline of South Island to its southernmost point (Santee Point) at latitude 33° 08.06’ N, longitude 079° 14.38’ W; thence following a straight line northwesterly across the North Santee River to the point of beginning.

 (13) Based on NOS chart 11532 (18th edition, June 1, 1996), all that area of Winyah Bay bounded by a closed line beginning at the point where the shoreline of Sand Island intersects the south jetty for Winyah Bay at latitude 33° 11.43’ N, longitude 079° 11.00’ W; thence following the shorelines of Sand and South Islands to the point on South Island at latitude 33° 13.82’ N, longitude 079° 12.16’ W; thence following a straight line easterly passing approximately through the charted positions of a green light buoy marked “15” and a red nun or conical buoy marked “16” to the point on North Island at latitude 33° 14.00’ N, longitude 079° 11.32’ W; thence following the shoreline of North Island southerly and easterly to its intersection with the north jetty for Winyah Bay at latitude 33° 12.53’ N, longitude 079° 10.43’ W; thence following a straight line southwesterly across the entrance to Winyah Bay to the point of beginning.

 (B) Those areas described in subsections (A)(1) through (A)(10) are closed to trawling from May 1 through September 15, inclusive.

 (C) That area described in subsection (A)(11) is closed to trawling year round.

 (D) Those areas described in subsections (A)(12) and (A)(13) are closed to trawling from December 16 through August 31 inclusive.

 (E) A person who violates this section by trawling in a restricted area during the open season is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars and not more than one thousand dollars or imprisoned for not more than thirty days.

HISTORY: 2000 Act No. 245, Section 4; 2002 Act No. 342, Section 26.

Library References

Fish 13(2).

Westlaw Topic No. 176.

C.J.S. Fish Section 35.

**SECTION 50‑5‑720.** Disposal of trawl bycatch; penalty.

 (A) It is unlawful to dispose of trawl bycatch or waste fisheries products at any time into state waters within one‑half nautical mile of any Atlantic Ocean beach for which trawling restrictions are provided.

 (B) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars nor more than five hundred dollars or imprisoned for not more than thirty days.

HISTORY: 2000 Act No. 245, Section 4.

Library References

Fish 13(2), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 35, 42 to 44.

**SECTION 50‑5‑725.** Trawling waters description references.

 The description of trawling waters in this article refers to the National Oceanic Service Nautical Charts prepared by the National Oceanic and Atmospheric Administration (NOAA) and future revisions of these charts by the federal government. References to points of latitude and longitude in this chapter are North American Datum 1983‑1986 and take precedent over any reference to landmarks, buoys, jetties, or other physical features.

HISTORY: 2000 Act No. 245, Section 4.

Library References

Fish 13(2), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 35, 42 to 44.

**SECTION 50‑5‑730.** Trawling near public fishing pier; penalty.

 It is unlawful to trawl within one‑half nautical mile of any public fishing pier in the salt waters. A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars nor more than five hundred dollars or imprisoned for not less than thirty days.

HISTORY: 2000 Act No. 245, Section 4.

Library References

Fish 13(2), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 35, 42 to 44.

**SECTION 50‑5‑735.** Night trawling; finfish exception.

 (A) Except as provided in this section it is unlawful to trawl at night. Night as used in this section means:

 (1) from April 1 through August 31 inclusive: 9:00 p.m. to 5:00 a.m. the following day, local time; and

 (2) from September 1 through October 31 inclusive: 8:00 p.m to 6:00 a.m. the following day, local time; and

 (3) from November 1 through March 31 inclusive: 7:00 p.m to 6:00 a.m. the following day, local time.

 (B) The department may grant permits authorizing night trawling for finfish.

HISTORY: 2000 Act No. 245, Section 4.

Library References

Fish 13(2), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 35, 42 to 44.

**SECTION 50‑5‑740.** Blue crab trawling season; penalty for trawling out of season; seizure and disposal of contraband.

 (A) The department annually may set the season for taking blue crabs (Callinectes sapidus) by trawling between December 1 of one year through March 31 of the following year, inclusive. It is unlawful to trawl for crabs during the closed season.

 (B) Any person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than two thousand dollars and not more than five thousand dollars or imprisoned for not more than thirty days. Any catch aboard or under control of the fisherman or other person at the time of the violation is contraband and must be seized and disposed of as provided in this chapter.

HISTORY: 2000 Act No. 245, Section 4.

Library References

Fish 13(3).

Westlaw Topic No. 176.

C.J.S. Fish Section 40.

**SECTION 50‑5‑745.** Blue crab taken by legal shrimp trawlers.

 The operator of a shrimp trawler may take, retain, and market lawful size blue crabs taken in the normal lawful process of trawling for shrimp during the seasons set for taking shrimp.

HISTORY: 2000 Act No. 245, Section 4.

Library References

Fish 13(3).

Westlaw Topic No. 176.

C.J.S. Fish Section 40.

**SECTION 50‑5‑750.** Crab trawling equipment restrictions; penalty.

 It is unlawful to trawl for crabs with equipment with a mesh of less than four inches stretched, and chafing gear of any sort must not be more than one‑half the circumference of the tailbag. A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars nor more than five hundred dollars or imprisoned for not more than thirty days.

HISTORY: 2000 Act No. 245, Section 4.

Library References

Fish 13(3).

Westlaw Topic No. 176.

C.J.S. Fish Section 40.

**SECTION 50‑5‑755.** Permits to trawl or dredge for finfish, blue crabs, whelks, and horseshoe crabs; limitations and conditions as to equipment; penalty.

 (A) The department may grant permits to licensed commercial saltwater fishermen to trawl or dredge for finfish, blue crabs, whelks (conchs), or other marine resources in any portion of the General Trawling Zone and for horseshoe crabs in the salt waters of this State. A captain engaged in the activity must possess a valid permit for the purpose granted by the department. A vessel lawfully engaged in taking shrimp with trawl nets having stretched mesh of less than two and one‑half inches does not require a permit to retain lawful finfish, blue crabs, whelks, or other marine resource.

 (B) Permits granted under this section may be limited and may include conditions as to minimum size requirements, mesh size of nets and other devices, fishing times or periods, fishing areas, species which may be retained for sale, catch limitations, catch reporting requirements, and other matters which it considers necessary. Unless permitted under this section, no net having a mesh of less than four inches stretched mesh may be aboard a boat trawling during the closed season for shrimp unless the net is stored below deck or secured in a locked bin or container.

 (C) The provisions of this section do not apply to the use of equipment permitted for taking oysters and hard clams in accordance with other provisions of law and regulations.

 (D) A person who violates this section by failing to acquire a permit, trawling at a time other than times allowed by law or under permit, or trawling in a nonpermitted area is guilty of a misdemeanor and, upon conviction, must be fined not less than two thousand dollars nor more than five thousand dollars or imprisoned for not more than thirty days.

HISTORY: 2000 Act No. 245, Section 4.

Library References

Fish 10(1), 13(1), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 28, 30, 34 to 39, 42 to 44.

**SECTION 50‑5‑760.** Illegal trawling.

 The operator of any vessel operating in an area or during a time when trawling is restricted or prohibited and which vessel does not have its trawl doors completely out of the water is illegally trawling.

HISTORY: 2000 Act No. 245, Section 4.

Library References

Fish 13(2).

Westlaw Topic No. 176.

C.J.S. Fish Section 35.

**SECTION 50‑5‑765.** Use of turtle excluder devices; penalty.

 (A) Except as provided in this section, a turtle excluder device must be used in trawl nets in the salt waters of this State under the same conditions required by federal regulations.

 (B) Until the federal regulations are amended to require turtle excluder device escape openings having dimensions equal to or greater than those required in item (1) of this subsection, each trawl net using a hard turtle excluder device in the salt waters of this State:

 (1) must have a turtle excluder device escape opening of no less than thirty‑five inches in taut horizontal length and no less than twenty inches in simultaneous vertical taut height, or

 (2) must have a federally approved leatherback or double cover flap hard turtle excluder device modification.

 (C) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars nor more than one thousand five hundred dollars or imprisoned for not more than thirty days.

HISTORY: 2000 Act No. 245, Section 4; 2002 Act No. 260, Section 1; 2002 Act No. 342, Section 27.

Library References

Fish 13(2), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 35, 42 to 44.

**SECTION 50‑5‑770.** Shrimp trawl requirements; penalties.

 (A) A shrimp trawl made in part or in whole of any webbing less than two and one‑half inches stretched mesh and exceeding a head rope length of sixteen feet used in the waters of this State must contain one or more department‑approved, properly installed bycatch reduction devices.

 (B) It is unlawful to have on board a vessel or to trawl with any trawl or trawls having a total foot rope length greater than two hundred twenty feet, not including the foot rope length of:

 (1) a single trawl not greater than sixteen feet when used as a try net, or

 (2) any trawl bundled and stored below deck or secured in a locked bin or container on deck.

 (C) When a vessel is underway, this section applies to trawls attached to trawl doors.

 (D) When a vessel is moored at a dock or anchored, this section applies to trawls attached to trawl doors or hung in the vessel’s rigging.

 (E) The department may exempt trawls utilized by persons holding a valid scientific collection permit granted by the department.

 (F) A person who violates subsection (A) is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars nor more than five hundred dollars or imprisoned for not more than thirty days, and any such trawl may be seized.

 (G) A person who violates subsection (B) is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars nor more than two thousand five hundred dollars or imprisoned not more than thirty days, and any trawl on board may be seized.

HISTORY: Act No. 245, Section 4; 2000 Act No. 327, Section 1.

Library References

Fish 13(2), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 35, 42 to 44.

ARTICLE 9

Shellfish

**SECTION 50‑5‑900.** Commercial shellfish culture or mariculture permits; term.

 (A) The department may grant permits to any state resident for the exclusive use of portions of the intertidal or subtidal state‑bottoms or waters for commercial shellfish culture or mariculture not to exceed an aggregate of five hundred acres of bottoms or an aggregate of one hundred surface acres of waters to any entity. In exercising its discretion the department may consider applicants’ previous performance and compliance with natural resources laws.

 (B) Each permit is valid for five years and may be renewed for additional terms.

HISTORY: 2000 Act No. 245, Section 5.

Library References

Fish 10(1).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

Attorney General’s Opinions

The South Carolina Department of Natural Resources is authorized to issue, condition, revoke, and decline to renew a shellfish culture permit. S.C. Op.Atty.Gen. (March 26, 2015) 2015 WL 1636661.

An employee of the Wildlife and Marine Resources Department is not precluded from holding an oyster lease from the Department (Decided under former Section 50‑17‑710). 1968‑69 Op. Atty Gen, No 2619, p 15.

**SECTION 50‑5‑905.** Permit applications; fee.

 (A) A person or entity desiring to acquire a Shellfish Culture Permit or a Shellfish Mariculture Permit for any bottoms or waters must make written application to the department on a form provided by the department. A nonrefundable sum of twenty‑five dollars must accompany the application for each permit. If the proposed area is available for shellfish culture or mariculture, the department shall determine:

 (1) the acreage of waters or shellfish bottoms; and

 (2) the acreage capable of producing shellfish.

 (B) No other Shellfish Culture Permit may be granted for the bottoms delineated within an existing Shellfish Culture Permit area. However, within the perimeter boundary of an existing Shellfish Culture Permit, the department may grant permits for mariculture for waters or bottoms not then under culture permit.

HISTORY: 2000 Act No. 245, Section 5.

Library References

Fish 10(1).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

**SECTION 50‑5‑910.** Permit requirements; lottery; sworn statement as to distribution through properly licensed wholesale seafood dealer.

 (A) An applicant for Shellfish Culture Permits and Shellfish Mariculture Permits must:

 (1) satisfy the department that the applicant has sufficient shellfish culture experience and will directly manage and supervise the cultivation of the permit area applied for, or will employ a qualified individual as manager within three months following the date that the permit becomes effective;

 (2) own and employ or provide assurance that the applicant is capable of acquiring the necessary equipment and personnel to effectively harvest and manage the area in question; and

 (3) hold or be qualified to obtain all state and federal approvals required for use of the bottoms or waters for which application is made.

 (B) In cases where two or more individuals who are equally qualified apply for a permit for the same bottoms or waters, the granting of the permit may be determined by lottery. The order in which applications are received shall have no bearing on the granting of a permit.

 (C) Persons and entities granted Shellfish Culture Permits and Shellfish Mariculture Permits must submit a sworn statement stating the permittee has a wholesale seafood dealer’s license, a molluscan shellfish license, and a shellfish facility certified by the South Carolina Department of Health and Environmental Control or that all shellfish harvested for sale shall be handled through a licensed wholesale seafood dealer having a molluscan shellfish license and a Department of Health and Environmental Control approved facility.

HISTORY: 2000 Act No. 245, Section 5.

Library References

Fish 10(1).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

**SECTION 50‑5‑915.** Review of applications; permit requirements or conditions; revocation duties delegated to deputy director for Marine Resources.

 (A) In reviewing applications for Shellfish Culture Permits and Shellfish Mariculture Permits, the department must:

 (1) review applications for permits and consider each applicant’s qualifications, and may conduct personal interviews;

 (2) consider contested permit applications, permit revisions, variances, or revocations; and

 (3) consider the allocation of shellfish bottoms and waters for public or private use.

 (B) Permits may be conditioned by the department to include requirements related to:

 (1) shellfish production and reporting;

 (2) mariculture structures and operations;

 (3) guarantee of public rights of access and nonconflicting uses of permitted areas;

 (4) planting variances;

 (5) bonding and escrow;

 (6) the department being held harmless from any claims or damages resulting from the permitted operations;

 (7) correction of any environmental degradation which may result from the permitted activity; and

 (8) revocation for failure to comply with permit performance conditions.

 (C) Revocation of Shellfish Culture Permits and Shellfish Mariculture Permits may be delegated by the department director to the deputy director for Marine Resources.

HISTORY: 2000 Act No. 245, Section 5.

Library References

Fish 10(1).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

**SECTION 50‑5‑920.** Mitigation of adverse impacts on shellfish bottoms and waters.

 (A) If this State authorizes any activity or use which requires closure of shellfish bottoms or waters, the portion of permitted bottoms or waters which falls within the closed area may be removed from the permit acreage, and the permit acreage agreement and annual fee adjusted on the annual renewal date.

 (B) If any activity or use is permitted:

 (1) over the objections of the department; or

 (2) for a project of overriding public need;

and if the activity or use causes shellfish bottoms or waters to be unsuitable for the purposes of shellfish propagation or diminishes the productivity of any shellfish bottoms or waters, the agency which allowed the activity, upon recommendation by the department, must require mitigation for the loss of the resource. Mitigation must not be considered as a factor to justify adverse impacts, and this section must not be interpreted as authorizing any adverse impact on shellfish bottoms or waters.

 (C) If an unauthorized action results in an adverse impact on shellfish bottoms or waters, the responsible party may be required by the department to mitigate for the loss of the resource and to compensate the department’s shellfish permittee.

 (D) Where shellfish grounds have been adversely impacted or closed by previous state authorization and there is additional adverse impact authorized by a state agency, the proponent (permittee) of the additional activity or use must mitigate the additional adverse impact. All such mitigation must benefit the resource.

 (E) Mitigation of adverse impacts on shellfish bottoms and waters must be determined by the department. The determination constitutes a final agency decision for the purposes of the Administrative Procedures Act.

HISTORY: 2000 Act No. 245, Section 5.

Library References

Fish 8, 10(1).

Westlaw Topic No. 176.

C.J.S. Fish Sections 24 to 26, 28.

Attorney General’s Opinions

Oysters can be imported during closed season and sold; however, oysters cannot be harvested in closed season, except by permit, whether harvesting is or is not done on state‑leased bottoms (Decided under former Section 50‑17‑1240). 1964‑65 Op. Atty Gen, No 1845, p 101.

Possessor of oysters during closed season must prove that they were imported or harvested in open season (Decided under former Section 50‑17‑1240). 1964‑65 Op. Atty Gen, No 1845, p 101.

Division may grant permit for removal of oysters for replanting anywhere (Decided under former Section 50‑17‑1240). Op. Atty Gen, May 21, 1963.

**SECTION 50‑5‑925.** Publication of notice of application.

 Upon conditional approval by the department of the shellfish culture or mariculture application and map, the applicant must publish a notice in a form satisfactory to the department advising all interested persons that the applicant has applied for a Shellfish Culture Permit or Shellfish Mariculture Permit and provide a specific description of the bottoms or waters. The notice must be published once a week for three consecutive weeks in a newspaper of general circulation in the county of the proposed permit.

HISTORY: 2000 Act No. 245, Section 5.

Library References

Fish 10(1).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

Attorney General’s Opinions

Absent amendment of notice statutes requiring notice in a newspaper of general circulation by the General Assembly, the term newspaper of general circulation cannot be extended to include online newspapers. S.C. Op.Atty.Gen. (October 21, 2015) 2015 WL 6745997.

**SECTION 50‑5‑930.** Preference.

 If a person granted a Shellfish Culture Permit or a Shellfish Mariculture Permit reapplies for the same bottoms or waters in the next ensuing term, the department must give preference to that applicant if the applicant has complied with all requirements of this article and his permit.

HISTORY: 2000 Act No. 245, Section 5.

Library References

Fish 10(1).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

**SECTION 50‑5‑935.** Fees; late payment penalty.

 Each person granted a Shellfish Culture Permit or a Shellfish Mariculture Permit must pay an annual fee of five dollars an acre for the bottoms on which he has been granted shellfishing rights, or five dollars an acre of water surface determined at mean high water delineated on the permit map, or both, when waters above permitted bottoms are also permitted. In the case of bottoms, the annual permit fee must be based on the number of bottom acres producing or capable of producing shellfish. The annual fee for shellfish permits must be prorated from the first of the month following the issuance of the permit to February 1 next. Thereafter, all annual fees are payable in advance. On February 1, the department must invoice each permittee. If the annual fee is not paid by March 1, the department must add a late penalty of ten percent. If the department does not receive the fee and any penalty on or before April 1, the permit is void.

HISTORY: 2000 Act No. 245, Section 5.

Library References

Fish 10(1).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

**SECTION 50‑5‑940.** Replanting for Shellfish Culture permittees; notice to department; revocation of permit or reduction of acreage for failure to replant.

 (A) Each Shellfish Culture permittee must plant fifty bushels of shell, seed oysters, seed clams, or other approved culch, or equivalent as determined by the department, annually for each acre of bottoms in his permit. All culch planting must be done between May 1 and August 31, inclusive, except permittees may replant green oyster shell from current operations if the shell is replanted within three days after gathering. Seed oysters and seed clams may be planted at any time of the year. All planting must be done only after notice to and with the approval of the department.

 (B) The department may allow credit for planting on shellfish bottoms not under permit. If the plantings are previously approved by the department, credit must be given toward the permittee’s annual quota in an amount equal to two times that of the number of bushels actually planted.

 (C) The department may provide incentives to permittees for improved or innovative management and cultivation techniques in the form of additional planting credits or planting variances.

 (D) If a permittee does not plant the required quota of approved culch or seed, his permit must be revoked or the permitted acreage reduced based upon the percentage of quota actually planted. In the event a permittee believes a permitted area, or a portion thereof, does not require planting for reasons of sound management, he must apply in writing to the department for a variance in his annual quota. The decision as to whether or not the bottoms must be planted or a variance given is within the discretion of the department. One cubic yard of approved culch is considered as twenty‑one and seven‑tenths bushels.

 (E) The provisions of this section do not apply to Shellfish Mariculture Permits.

HISTORY: 2000 Act No. 245, Section 5.

Library References

Fish 8, 10(1).

Westlaw Topic No. 176.

C.J.S. Fish Sections 24 to 26, 28.

**SECTION 50‑5‑945.** Permit to take shellfish for replanting or use in mariculture; conditions.

 (A) Shellfish Culture permittees must acquire a permit to take shellfish for replanting from state bottoms designated by the department for that purpose. The permittee must make application to the department ten days before removing shellfish.

 (B) Shellfish Mariculture permittees must acquire a permit from the department to take wild shellfish seed for use in mariculture.

 (C) Permits issued pursuant to this section may include conditions related to:

 (1) harvest dates and harvest areas;

 (2) shellfish size and quantity limits;

 (3) cull requirements; and

 (4) protection of the natural resources of this State.

HISTORY: 2000 Act No. 245, Section 5; 2017 Act No. 30 (S.465), Section 3, eff May 10, 2017.

Effect of Amendment

2017 Act No. 30, Section 3, inserted the paragraph designators; in (A), in the first sentence, substituted “must” for “may”; and added (B) and (C), relating to shellfish mariculture permits and permit conditions.

Library References

Fish 10(1).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

**SECTION 50‑5‑950.** Specification of other terms and conditions.

 In addition to the requirements of this article, the department may specify other permit terms and conditions. The department may require a written agreement between or among permittees holding bottoms or waters within a specified perimeter boundary. If the permittee violates any terms or conditions of the permit or a written agreement, the department may revoke or suspend the permit.

HISTORY: 2000 Act No. 245, Section 5.

Library References

Fish 10(1).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

**SECTION 50‑5‑955.** Designation and maintenance of Public Shellfish Grounds; areas containing DHEC permitted structure; taking for commercial purpose prohibited.

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

 (B) No area currently containing a structure permitted by the Department of Health and Environmental Control or its successor agency may be designated pursuant to this section. The Department of Health and Environmental Control or its successor agency may not issue a permit for utilization of a critical area designated as a Public Shellfish Ground.

 (C) A person taking shellfish from a Public Shellfish Ground for commercial purposes or selling or attempting to sell shellfish taken from a Public Shellfish Ground is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned for not more than thirty days.

HISTORY: 2000 Act No. 245, Section 5; 2009 Act No. 15, Section 5, eff July 1, 2009.

Effect of Amendment

The 2009 amendment, in subsection (A), in the first sentence substituted “recreational saltwater fishing license” for “marine recreational fishing stamp as required by Article 19 of this chapter”.

CROSS REFERENCES

Authority to regulate for public health and environmental protection, see Section 50‑5‑35.

Library References

Fish 8, 10(1), 13(3).

Westlaw Topic No. 176.

C.J.S. Fish Sections 24 to 26, 28, 40.

**SECTION 50‑5‑960.** Rules governing recreational shellfish bottom harvests.

 (A) The following provisions apply to the taking and possessing of shellfish from bottoms designated by the department for recreational shellfish harvest by persons not permitted to harvest shellfish for commercial purposes:

 (1) there is a personal limit of not more than two bushels of oysters or one‑half bushel of clams, or both, in any one day;

 (2) no person may harvest shellfish recreationally on more than two calendar days per any seven‑day period; and

 (3) regardless of the number of persons, there is a maximum possession limit of three personal limits per boat or vehicle or boat and vehicle combination.

 (B) No person other than a person holding the required commercial license and permit may have in possession more than the daily limit provided in this article while on the waters of this State or the adjoining lands, provided that this prohibition does not apply to persons possessing or transporting properly tagged shellfish received from a licensed and certified wholesale seafood dealer.

 (C) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty‑five dollars nor more than two hundred dollars or imprisoned for not more than thirty days.

HISTORY: 2000 Act No. 245, Section 5; 2002 Act No. 342, Section 28.

Library References

Fish 8, 13(3).

Westlaw Topic No. 176.

C.J.S. Fish Sections 24 to 26, 40.

Attorney General’s Opinions

The designation and location of shellfish areas may be changed in like manner in which they were created (Decided under former Section 50‑17‑1260). 1969‑70 Op.s Atty Gen, No 2998, p 279.

**SECTION 50‑5‑965.** Taking shellfish from bottoms designated for commercial harvest; individual harvester permits; written approvals; penalties.

 (A) A person who takes shellfish from bottoms or waters designated for commercial harvest must possess an individual harvesting permit granted by the department if the person:

 (1) harvests or possesses quantities greater than those provided in this article for personal use; or

 (2) harvests for commercial purposes.

 (B) In order to obtain an individual harvesting permit, a person must be a licensed commercial saltwater fisherman, hold all other appropriate valid commercial licenses, and complete any shellfish training required by regulations promulgated by the South Carolina Department of Health and Environmental Control pursuant to Section 44‑1‑140.

 (C) Permits issued pursuant to this section may include conditions related to:

 (1) harvest dates and harvest areas;

 (2) shellfish size and quantity limits;

 (3) cull requirements; and

 (4) protection of the natural resources of this State.

 (D) The department may limit the number of areas not under Shellfish Culture Permit or Shellfish Mariculture Permit on which an individual may be permitted to harvest.

 (E) When bottoms or waters are under permit for shellfish culture or mariculture, permittees may allow persons to harvest shellfish from bottoms and waters permitted to him. In addition to the permit required in subsection (A), harvesters must possess written approval from the Shellfish Culture permittee or Shellfish Mariculture permittee in a form approved by the department. Culture and Mariculture permittees must provide approved harvesters with the written permission and must maintain accurate record of harvesters’ names, addresses, and, if available, telephone numbers.

 (F) It is unlawful for a person to take or attempt to take shellfish in quantities greater than those for personal use provided in this article from any state‑owned bottoms or waters without having in his possession a valid individual commercial harvesting permit granted to him.

 (G) It is unlawful for any person to take or attempt to take shellfish from state‑owned bottoms or waters under permit for shellfish culture or mariculture without a valid individual harvester permit granted to him by the department.

 (H) A person who violates this section, or a condition of a permit issued pursuant to this section, is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars nor more than five hundred dollars or imprisoned not more than thirty days.

HISTORY: 2000 Act No. 245, Section 5; 2002 Act No. 342, Section 29; 2017 Act No. 30 (S.465), Section 4, eff May 10, 2017.

Effect of Amendment

2017 Act No. 30, Section 4, amended and redesignated (G) as (B), relating to requirements for obtaining an individual harvester permit, inserted (C), relating to permit conditions, and redesignated accordingly; and in (H), inserted “, or a condition of a permit issued pursuant to this section,”.

CROSS REFERENCES

Shellfish, see S.C. Code of Regulations R. 61‑47.

Library References

Fish 10(2), 13(3), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 28, 40, 42 to 44.

**SECTION 50‑5‑970.** Mechanical harvest permits; penalties.

 It is unlawful to take or attempt to take shellfish from any bottoms or waters of this State for any purpose by mechanically operated devices, including dredges, hydraulic escalators, patent tongs, hoists, cranes, and mechanical shellfish harvesters without obtaining a mechanical harvest permit from the department. A person taking or attempting to take shellfish by mechanically operated devices without an appropriate, valid mechanical harvesting permit is guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand dollars nor more than two thousand five hundred dollars or imprisoned for not more than thirty days and must have his saltwater privileges suspended for twelve months. Any commercial equipment or vessel used in violating this section and any shellfish in possession at the time of a violation is contraband.

HISTORY: 2000 Act No. 245, Section 5.

Library References

Fish 13(3), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 40, 42 to 44.

**SECTION 50‑5‑975.** Commercial and personal harvest limited to areas specified on permit; penalties; voluntary surrender of commercial permit.

 (A) A person permitted to harvest shellfish from state‑ owned bottoms for commercial purposes must harvest, whether for commercial or personal use, from only the areas of state bottoms specified on the permit. A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not less than fifty dollars nor more than five hundred dollars or imprisoned for not more than thirty days.

 (B) Following voluntary surrender of a commercial shellfish harvest permit by a commercial saltwater fisherman, the department must not reissue a commercial shellfish harvest permit to the person during the remainder of the license year.

HISTORY: 2000 Act No. 245, Section 5.

Library References

Fish 8, 10(2), 13(3), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 24 to 26, 28, 40, 42 to 44.

**SECTION 50‑5‑980.** Erection and maintenance of signs; penalty.

 It is unlawful for a person, without approval of the department, to erect or maintain any sign over or on any state shellfish bottoms or waters. However, a Culture or Mariculture Permit holder may erect signs approved by the department to designate areas under permit. This section in no way affects placement by an authorized public agency of signs for aid to navigation, public health, public safety, and geographic designation. A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars nor more than five hundred dollars or imprisoned for not more than thirty days.

HISTORY: 2000 Act No. 245, Section 5.

Library References

Fish 13(3), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 40, 42 to 44.

**SECTION 50‑5‑985.** Setting season for taking shellfish; bringing shellfish into State during closed season; night harvests; penalties.

 (A) The department annually may set the season for taking shellfish between September 16 of any year through May 15 of the following year, inclusive. It is unlawful for a person to take or attempt to take any shellfish from shellfish grounds during the closed season. A person who violates the provision of this subsection for a commercial purpose is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars nor more than five hundred dollars or imprisoned for not more than thirty days and must have his saltwater privileges suspended for twelve months. A person who violates this section for a noncommercial purpose is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned for not more than thirty days.

 (B) It is unlawful to take or attempt to take shellfish from any grounds closed by the department or any other authorized government agency. A person who violates the provision of this subsection for a commercial purpose is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars nor more than one thousand dollars or imprisoned for not more than thirty days and must have his saltwater privileges suspended for twelve months. A person who violates the provisions of this subsection for a noncommercial purpose is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars nor more than one thousand dollars or imprisoned for not more than thirty days.

 (C) The department has the authority to open or close any area for the taking of shellfish for any specified period at any time during the year when biological or other conditions warrant.

 (D) Nothing in this section prevents the department from permitting the taking of shellfish for the purposes of replanting or propagation.

 (E) Shellfish imported into this State during the closed season must bear written evidence, such as a bill of lading or other official document from the State of removal, which verifies that the shellfish were lawfully taken from that state. A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars nor more than one thousand dollars.

 (F) It is unlawful for a person to harvest shellfish between one‑half hour after sunset as locally published and one‑half hour before sunrise as locally published. In the case of bottoms under Shellfish Culture Permit or Shellfish Mariculture Permit harvesting of shellfish during the specified period is lawful with the written permission of the department.

HISTORY: 2000 Act No. 245, Section 5; 2002 Act No. 342, Section 30.

Library References

Fish 13(3), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 40, 42 to 44.

Attorney General’s Opinions

Possessor of oysters during closed season must prove that they were imported or harvested in open season (Decided under former Section 50‑17‑1240). 1964‑65 Op. Atty Gen, No 1845, p 101.

Oysters can be imported during closed season and sold; however, oysters cannot be harvested in closed season, except by permit, whether harvesting is or is not done on state‑leased bottoms (Decided under former Section 50‑17‑1240). 1964‑65 Op. Atty Gen, No 1845, p 101.

Division may grant permit for removal of oysters for replanting anywhere (Decided under former Section 50‑17‑1240). Op. Atty Gen, May 21, 1963.

**SECTION 50‑5‑990.** Size limitations for hard clams of the genus Mercenaria; permits for possession and sale of undersized clams; penalties.

 (A) It is unlawful to take or attempt to take, possess, sell, purchase, or import a hard clam of the genus Mercenaria of less than one inch in thickness as measured from the exterior surface of one shell of the intact clam to the exterior surface of the opposite shell. A person taking a clam of other than legal size must immediately return it to the bottoms from whence it came.

 (B) It is lawful for persons and entities engaged in shellfish mariculture operations to possess mariculture clams of less than the minimum size specified in this section and to import, purchase, sell, or transplant undersized mariculture clams, as defined in this section, by obtaining a permit. It is also lawful for a licensed wholesale seafood dealer or retail restaurant to purchase and possess for resale undersized maricultured clams purchased from a mariculture operation permitted pursuant to this section, provided the licensed wholesale seafood dealer or retailer has proof of origin in possession for each lot of clams purchased.

 (C) A violation of this section by a person is a misdemeanor and, upon conviction, that person must be fined not less than twenty‑five dollars nor more than five hundred dollars or imprisoned for not more than thirty days.

HISTORY: 2000 Act No. 245, Section 5.

Library References

Fish 13(3), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 40, 42 to 44.

**SECTION 50‑5‑995.** Shellfish mariculture operation permits.

 The department may permit persons and entities engaged in shellfish mariculture operations to take, possess, and sell maricultured shellfish at any time during the year.

HISTORY: 2000 Act No. 245, Section 5.

Library References

Fish 10(1).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

**SECTION 50‑5‑997.** Shellfish mariculture permittees; out‑of‑season harvest permits.

 (A) The department may issue an out‑of‑season harvest permit to a Shellfish Mariculture permittee for the privilege of harvesting or selling maricultured shellfish out of season. The department may consider a permittee’s past compliance with the provisions of this chapter in making its determination to issue an out‑of‑season harvest permit.

 (B) In order to obtain an out‑of‑season harvest permit, a mariculture permittee must provide the following to the department:

 (1) a shellfish operations plan that meets requirements established by regulations promulgated by the South Carolina Department of Health and Environmental Control pursuant to Section 44‑1‑140; and

 (2) a list of authorized harvesters and wholesale dealers that will possess the permittee’s out‑of‑season shellfish.

 (C) Out‑of‑season harvest permits issued pursuant to this section may include conditions related to:

 (1) harvest times and harvest areas;

 (2) species;

 (3) testing;

 (4) reporting, record keeping, and inspection requirements;

 (5) genetic strains including ploidy;

 (6) tagging;

 (7) authorized harvesters; and

 (8) protection of the natural resources of this State.

 (D) An authorized harvester acting under the provisions of a permittee’s out‑of‑season harvest permit must first complete any shellfish training required by regulations promulgated by the South Carolina Department of Health and Environmental Control pursuant to Section 44‑1‑140. A Mariculture permittee must ensure that an authorized harvester acting under the permittee’s out‑of‑season harvest permit abides by the conditions of the permit, receives proper training, and holds all required permits and licenses.

 (E) The department may suspend or revoke a mariculture permittee’s out‑of‑season harvest permit for a violation of a permit condition by the permittee or by an authorized harvester of the permittee. The filing of a judicial appeal does not act as an automatic stay of enforcement of the out‑of‑season permit suspension or revocation.

HISTORY: 2017 Act No. 30 (S.465), Section 5, eff May 10, 2017.

CROSS REFERENCES

Shellfish, see S.C. Code of Regulations R. 61‑47.

**SECTION 50‑5‑1000.** Wholesale seafood dealer prohibited from purchasing from unlicensed fisherman or dealer; maintenance of records; penalties.

 (A) It is unlawful for any wholesale seafood dealer to purchase shellfish produced, taken, or landed in this State from anyone who is not either:

 (1) a properly licensed and permitted commercial saltwater fisherman; or

 (2) a properly licensed wholesale seafood dealer.

 (B) The wholesale seafood dealer must maintain a record of all purchases of shellfish produced, taken, or landed in this State including the name and address of the person from whom purchased, the area where harvested, the type of shellfish purchased, the dates of harvest and purchase, and the commercial saltwater fisherman’s license number. The record must be available for inspection by any law enforcement officer or department personnel for one year after the date of sale.

 (C) Any licensed wholesale seafood dealer who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand dollars nor more than two thousand five hundred dollars and must have his saltwater privileges suspended for twelve months.

HISTORY: 2000 Act No. 245, Section 5.

Library References

Fish 13(3), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 40, 42 to 44.

**SECTION 50‑5‑1005.** Shellfish importation permits; conditions; penalties.

 (A)(1) The department may grant permits to persons to import molluscan shellfish, shellfish tissues, or shells into this State.

 (2) No molluscan shellfish, shellfish tissues, or shells may be imported into this State and placed in waters in this State except under the provisions of a shellfish importation permit.

 (B)(1) The department may grant permits to persons to possess, produce, purchase, or sell genetically modified shellfish, including polyploid shellfish.

 (2) No genetically modified shellfish, including polyploid shellfish, may be placed in the waters of this State or waters connected to the waters of this State, except under the provisions of a permit issued by the department.

 (C) Permits issued pursuant to this section may include conditions related to:

 (1) the type or species of mollusks to be imported;

 (2) testing;

 (3) ancillary species attached to or associated with the species to be imported;

 (4) structure and placement of holding or storage facilities;

 (5) placement of the product in natural waters of this State;

 (6) disposal of shellfish, shellfish parts, and associated biota;

 (7) treatment of effluent;

 (8) biosecurity;

 (9) reporting requirements; and

 (10) protection of the natural resources of this State.

 (D) A person who violates this section, or a condition of a permit issued pursuant to this section, is guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand dollars and not more than two thousand dollars or imprisoned for not more than thirty days.

HISTORY: 2000 Act No. 245, Section 5; 2017 Act No. 30 (S.465), Section 6, eff May 10, 2017.

Effect of Amendment

2017 Act No. 30, Section 6, rewrote the section, prohibiting the placing of genetically modified shellfish in the waters in this state except under the provisions of a permit, providing for the issuance of permits to persons who possess, produce, purchase, or sell genetically modified shellfish, and providing for the issuance of permits with conditions relating to testing, treatment of effluent, and biosecurity.

Library References

Fish 10(1), 13(3), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 28, 40, 42 to 44.

**SECTION 50‑5‑1010.** Shell removal permits; conditions; remedy in event of significant ecological perturbations; payment.

 (A) The department has jurisdiction over all natural shell deposits, including oysters, clams, and other mollusks occurring upon or within state‑owned bottoms, and over all shell deposits lying above mean high water if those deposits have been created by the process of accretion to state‑owned lands or bottoms.

 (B) The department may grant permits to remove shell from these deposits for use in shellfish cultivation and mariculture. The permits must be granted for a term not to exceed three years and must specify conditions for removal. Permits may be granted only when no significant ecological perturbations are foreseen. If permitted removal does cause significant ecological perturbations as a result of the permittee failing to abide by conditions of the permit, the permittee must restore the area to its original condition or as close to its original condition as possible. The department must specify a fixed price for each unit of shell removed. Payments for shell removed must be made by the permittee on or before the tenth day of each month for the preceding month.

HISTORY: 2000 Act No. 245, Section 5.

Library References

Fish 10(1).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

**SECTION 50‑5‑1015.** Unlawful removal of shell; penalty.

 It is unlawful to remove shell from any shell deposits under state jurisdiction except as provided by this article. A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty‑five dollars nor more than five hundred dollars or imprisoned for not more than thirty days.

HISTORY: 2000 Act No. 245, Section 5.

Library References

Fish 13(3), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 40, 42 to 44.

**SECTION 50‑5‑1020.** Possession of undersized whelk of genus Busycon taken for commercial purpose prohibited.

 It is unlawful to take, possess, sell, or purchase a living whelk (conch) of the genus Busycon of less than a size as determined by the department but not less than four inches in maximum dimension if taken or landed in this State for a commercial purpose, provided this prohibition does not apply to conchs of less than legal size taken during lawful trawling which are returned immediately to the water.

HISTORY: 2000 Act No. 245, Section 5.

Library References

Fish 13(3), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 40, 42 to 44.

ARTICLE 11

Shrimp

**SECTION 50‑5‑1100.** Lawful and unlawful taking of shrimp; penalties.

 (A) It is unlawful to catch or take shrimp by any means for commercial purposes outside the General Trawling Zone or outside the legal channel net zones as established by the department, other than for sale as live bait, or in or near any waters or bottoms which have been baited by placing, depositing, or scattering any material to attract or lure shrimp toward the bait or to cause shrimp to congregate in the area where the bait is placed. Furthermore, it is unlawful to take or attempt to take shrimp by the use of a shrimp trap or shrimp pot.

 (B) The department shall establish annually a sixty‑day open season between September 1 and November 15 for taking shrimp over baited areas. The sixty days may but are not required to be consecutive. It is unlawful for anyone to take, or attempt to take, shrimp over bait during the closed season for taking shrimp over bait. The provisions of this subsection do not apply to anyone taking or attempting to take shrimp over bait by the use of a drop net from a pier, dock, or other structure permanently affixed to the high land.

 (C) It is unlawful for a resident or nonresident of this State to take shrimp by cast net over bait during the open season unless he first obtains from the department a shrimp baiting license and associated tags, except that a resident possessing the required license and associated tags, while shrimping from a boat may be assisted in casting by other resident individuals in the boat with him and those individuals are not required to have a license or associated tags. Upon receipt of application and fees, the department shall issue the license along with ten marking device tags bearing the corresponding license number. Each licensee while shrimping over bait shall carry on his person his baiting license and upon demand shall show it to an enforcement officer.

 (D) It is unlawful for a person to borrow, loan, or exchange a baiting license or tags with another person. In addition to the penalties set forth in this section, he shall forfeit any right to any baiting license and tags issued to him. In addition, he is prohibited from procuring another baiting license and tags for the season for which the baiting license and tags so borrowed, exchanged, or loaned were issued.

 (E) The fee for a resident shrimp baiting license and associated tags is twenty‑five dollars. The fee for the issuance of the nonresident shrimp baiting license and associated tags is five hundred dollars. The department may issue duplicate baiting licenses or tags upon affidavit from the licensee that he has lost his baiting license or tags. The duplicate license or tags must be labeled “Duplicate”. The fee for the issuance of a duplicate shrimp baiting license is twenty‑five dollars for residents and one hundred dollars for nonresidents. The fee for the issuance of each duplicate tag is one dollar for residents and four dollars for nonresidents.

 All monies derived from the issuance of all licenses and tags authorized in this section are retained by the department for the purposes of administration and enforcement of this section and article and to conduct an annual survey of the fishery.

 (F)(1) It is unlawful for a person to catch or take shrimp over a baited area unless each bait deposit is marked by a pole not to exceed one inch in diameter which is driven into the ground and with the department‑issued tag securely attached to it.

 (2) It is unlawful for a person to catch or take shrimp over a baited area unless each pole is plainly marked with reflective tape.

 (3) There is a ten‑pole limit a boat a day. Additional boats in tow may not be used to increase the number of authorized poles.

 (4) There is a ten‑pole limit for each person who is shrimping over a baited area if no boat is being used.

 (5) If more than one pole is being used, the distance between the first and the last pole may not exceed one hundred yards.

 (6) The minimum distance between each set of poles may not be less than twenty‑five yards.

 (7) No pole or set of poles may be left unattended, and if the licensee is not located in the immediate vicinity, the poles must be confiscated by the department.

 (8) The licensee is allowed to shrimp over only those poles bearing his corresponding license number.

 It is unlawful during the closed season for taking shrimp over bait to have aboard any boat, any poles, or material that can be used to attract, lure, or cause shrimp to congregate.

 It is unlawful to set poles within fifty yards of a dock or public landing or boat ramp.

 Nothing in this subsection prevents the owner of a private dock or anyone with his written permission from taking shrimp over bait from the dock as long as the department‑issued license tag is clearly displayed upon the dock in lieu of the pole required in this section.

 (G) The provisions of subsection (F) do not apply to anyone taking or attempting to take shrimp by the use of a drop net over bait from a pier, dock, or other structure permanently affixed to the high land.

 (H) A person who violates the provisions of subsection (A) is guilty of a misdemeanor and, upon conviction, must be fined not less than two thousand dollars and not more than five thousand dollars and may be imprisoned for not more than thirty days and the shrimp baiting privilege must be suspended for two years. The boat, motor, trailer, rigging, coolers, nets, fishing devices, and catch are contraband and must be seized and disposed of as provided in this chapter.

 (I) A person who violates the provisions of subsection (B) is guilty of a misdemeanor and, upon conviction, must be fined two hundred dollars or imprisoned for not more than thirty days and the boat, motor, trailer, rigging, coolers, fishing devices, and catch are contraband and must be seized and disposed of as provided in this chapter. In addition, his privilege to catch shrimp over bait will be suspended for a period of two years from the date of conviction.

 (J) A person who violates the provisions of subsection (C) or (D) is guilty of a misdemeanor and, upon conviction for a first offense, must be fined two hundred dollars or imprisoned for not more than thirty days and the catch is contraband and must be seized and disposed of as provided in this chapter. A person who violates subsection (C) or (D) for a second or subsequent offense is guilty of a misdemeanor and, upon conviction, must be fined two hundred dollars or imprisoned for not more than thirty days and the boat, motor, trailer, rigging, coolers, fishing devices, and catch are contraband and must be seized and disposed of as provided in this chapter.

 (K) A person who violates the provisions of subsection (F) is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty‑five dollars nor more than two hundred dollars, and the catch is contraband and may be seized and if seized must be disposed of as provided in this chapter.

 (L) Each quart of shrimp taken in violation of the provisions of this section is a separate offense.

 (M) No part of the minimum fines provided in this section may be suspended.

HISTORY: 2000 Act No. 245, Section 6; 2002 Act No. 342, Sections 31, 50.

Library References

Fish 13(1), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 30, 34 to 39, 42 to 44.

United States Supreme Court Annotations

Constitutionality of state laws which discriminate against nonresidents or aliens as to fishing and hunting rights. 52 L Ed 2d 824.

**SECTION 50‑5‑1102.** Persons who may not obtain or hold shrimp baiting license; penalty.

 (A) Effective July 1, 2000, the following may not obtain or attempt to obtain a shrimp baiting license:

 (1) any person who, or officer of a corporation which, owns a vessel specified on a trawl license;

 (2) any person named as master of a vessel specified on a trawl license application;

 (3) any person licensed to use a channel net;

 (4) any person licensed to use a cast net for a commercial purpose; or

 (5) any person who, or officer of a corporation which, is licensed as a wholesale seafood dealer.

 (B) No person holding a shrimp baiting license may be a person specified in subsection (A).

 (C) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars nor more than one thousand dollars or imprisoned for not more than thirty days.

HISTORY: 2000 Act No. 373, Section 1.

Library References

Fish 10(1), 13(1), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 28, 30, 34 to 39, 42 to 44.

**SECTION 50‑5‑1105.** Catch limits; bait dealer taking and possession requirements; penalties.

 (A) When taking shrimp over bait, there is a catch limit of not more than forty‑eight quarts of whole shrimp or twenty‑nine quarts of headed shrimp, for each set of poles a day. When no bait is being used, the catch limit is forty‑eight quarts of whole shrimp or twenty‑nine quarts of headed shrimp for each boat a day or for each person when no boat is used. When a seine or seines are being used to take shrimp, one catch limit is allowed a day among the persons using the seines. As used in this section, a day means sunrise on one day to sunrise on the following day.

 (B) It is unlawful for a person to have in his immediate control or possession more than forty‑eight quarts of whole shrimp or twenty‑nine quarts of headed shrimp while upon the waters or the lands immediately adjacent to the waters from May 1 through December 15. The possession limit is ninety‑six quarts of whole shrimp or fifty‑eight quarts of headed shrimp while not on the waters or lands immediately adjacent to the waters unless a person has in possession a bill of lading or receipt showing that the shrimp have been purchased from a licensed retail or wholesale dealer. This subsection does not apply to a licensed trawler lawfully fishing or transporting the catch, or to a licensed dealer distributing his product, or to a properly licensed bait dealer harvesting or distributing his product.

 (C) From December 16 through April 30, except as otherwise provided in this subsection, it is unlawful for a person to have in his immediate control or possession more than a total of twelve dozen live or dead shrimp while upon the waters of this State. When a boat is being used to catch or transport shrimp, one limit is allowed among all persons in the boat. This subsection does not apply to a trawler lawfully fishing or transporting the catch or to a licensed dealer distributing his product, or to a properly licensed bait dealer harvesting or distributing his product. No trawler may have a cast net or other recreational shrimping gear aboard during this period. Charter fishing vessels properly licensed under Section 50‑5‑1930 may not have aboard more than a total of twenty‑five dozen live or dead shrimp while upon the waters of this State from December 16 through April 30.

 (D) Any bait dealer harvesting live shrimp to be sold as bait:

 (1) must have in possession a valid bait dealer license;

 (2) must have a live bait tank or bait tanks aboard the harvesting vessel with a compatible aeration system;

 (3) may not have dead shrimp aboard; and

 (4) must be certified by the department as a bona fide bait dealer. The department may annually certify bone fide bait dealers, and this department certification must be in writing and must be in the bait dealer’s possession at all times when harvesting live shrimp for bait or while in possession of live shrimp to be sold as bait. For purposes of certification the department may inspect the business premises and floating equipment of a person engaged in harvesting and selling shrimp to be used as bait.

 (E) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined two hundred dollars or imprisoned for not more than thirty days, and the entire catch is contraband and must be seized and disposed of as provided in this chapter. If the shrimp involved in the violation were caught over bait, the privilege to catch shrimp over bait must be suspended for two years from the date of conviction.

 (F) No part of the fine, forfeiture, or suspension of privileges imposed for a violation under this section may be suspended.

HISTORY: 2000 Act No. 245, Section 6.

Code Commissioner’s Note

At the direction of the Code Commissioner, “50‑5‑1910” was deleted from the last sentence of subsection (C) because that section was repealed by 2009 Act No. 15.

Library References

Fish 13(1), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 30, 34 to 39, 42 to 44.

**SECTION 50‑5‑1110.** Mesh size and stretch measure for shrimp cast nets.

 Effective July 1, 2002, when taking shrimp over bait, no cast net may be used having a mesh size smaller than one‑half inch square measure or one inch stretch measure. A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned for not more than thirty days.

HISTORY: 2000 Act No. 373, Section 2.

Library References

Fish 13(2), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 35, 42 to 44.

ARTICLE 13

Crabs

**SECTION 50‑5‑1300.** Taking of sponge crabs prohibited; import permits; penalties.

 (A) It is unlawful for a person to take, possess, sell, or offer for sale, any sponge crab or female crab from which the sponge has been removed. It is not unlawful to temporarily take sponge crabs incidental to lawful crabbing operations so long as the sponge crabs are returned immediately to the water without further harm.

 (B) The department may grant permits to licensed wholesale seafood dealers to import and possess sponge crabs from states where taking and selling are lawful.

 (C) The prohibitions of subsection (A) do not apply to the importation or sale of sponge crabs by a licensed wholesale seafood dealer who holds a permit granted under this section. A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty‑five dollars nor more than five hundred dollars or imprisoned for not more than thirty days.

HISTORY: 2000 Act No. 245, Section 7.

Library References

Fish 10(1), 13(3), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 28, 40, 42 to 44.

**SECTION 50‑5‑1305.** Blue crabs; commercial taking at night prohibited; penalties.

 (A) Except as provided in this section, it is unlawful for a commercial saltwater fisherman licensed to set, move, fish, retrieve, or remove catch from traps which may be used to take blue crabs; or to transport aboard a vessel more than twenty‑four blue crabs or parts or products thereof, during the following times:

 (1) from 9:00 p.m until 5:00 a.m. the following day, local time, from April 1 through September 15 inclusive; and

 (2) from 7:00 p.m until 6:00 a.m the following day, local time, from September 16 through March 31 inclusive.

 This prohibition does not apply to recreational fishermen using properly marked personal traps.

 A vessel rigged to use a licensed trawl may have blue crabs aboard at night if taken during lawful trawling activity; however, no vessel rigged for trawling may be used to set, move, retrieve, or remove catch from crab traps.

 (B) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than fifty dollars nor more than five hundred dollars or imprisoned for not more than thirty days.

HISTORY: 2000 Act No. 245, Section 7.

Library References

Fish 13(3), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 40, 42 to 44.

**SECTION 50‑5‑1310.** Size limitations for blue crabs; peeler crab and clam mariculture exceptions.

 (A) Except as provided in this chapter, it is unlawful for a person to take, possess, sell or offer for sale any blue crab (Callinectes sapidus) of a size smaller than five inches measured from the tip of one lateral spine across the back of the shell to the tip of the opposite lateral spine. It is not unlawful to temporarily take blue crabs of a size smaller than five inches incidental to lawful fishing operations so long as the undersized crabs are returned immediately to the water without further harm. A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty‑five dollars nor more than five hundred dollars or imprisoned for not more than thirty days.

 (B) Any licensed commercial saltwater fisherman licensed to harvest blue crabs may harvest or transport peeler crabs of less than five inches but must first obtain a written acknowledgment from a licensed peeler crab dealer in a form prescribed by the department stating that the peeler crab dealer will accept peeler crabs from the licensed commercial saltwater fisherman. The acknowledgment must be dated and is not effective beyond ninety days from the date thereon. A licensed commercial saltwater fisherman must deliver undersized peeler blue crabs only to licensed peeler crab dealers from whom he has received the written acknowledgment. A licensed commercial saltwater fisherman who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty‑five dollars nor more than five hundred dollars or imprisonment for not more than thirty days.

 (C) The department may issue permits to persons engaged in clam mariculture for the capture, temporary possession, and transport of blue crabs or stone crabs of any size. The permittee must return all captured stone crabs and sublegal blue crabs alive to water of comparable salinity. A permittee using more than two traps may retain legal size blue crabs and stone crab claws only if licensed as a commercial saltwater fisherman and licensed to use traps.

HISTORY: 2000 Act No. 245, Section 7.

Library References

Fish 13(3).

Westlaw Topic No. 176.

C.J.S. Fish Section 40.

**SECTION 50‑5‑1315.** Importation of undersize blue crabs; penalties.

 It is lawful for licensed wholesale seafood dealers to import blue crabs of less than the minimum size specified in this article when permitted by the department. Each shipment of imported blue crabs must have with it a bill of sale or other documentation dated no earlier than three days preceding the shipment from a licensed commercial saltwater fisherman or seafood dealer in the jurisdiction of origin verifying the crabs were lawfully taken. Any licensed wholesale seafood dealer who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars nor more than five hundred dollars or imprisonment for not more than thirty days.

HISTORY: 2000 Act No. 245, Section 7.

Library References

Fish 10(1), 13(3), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 28, 40, 42 to 44.

**SECTION 50‑5‑1320.** Identification of vessels taking blue crabs by trap; buoy colors; penalty.

 (A) Any vessel used in aid of taking blue crabs by trap or transporting live blue crabs taken by traps for commercial purposes must display crab trap identification numbers assigned by the department as authorized in Article 5 of this chapter. The numbers must be displayed permanently and conspicuously on the outside of the hull on both the port and starboard sides of the vessel near midships. Individual letters and numerals must be no less than eight inches in height and six inches in width and of a color contrasting that of the hull. An unobstructed circle no less than eight inches in diameter, in a contrasting color must be displayed next to the trap identification number. The circle must consist of any one or two colors, other than black or yellow, which match the color or color combination utilized on the buoys of the crab traps being used. If two colors are used, each must cover one‑half of the circle. Colors must be of such hue and brilliance as to be easily distinguished and seen.

 The department may approve and require crab fishermen to register color choices.

 (B) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty‑five dollars nor more than five hundred dollars or imprisoned for not more than thirty days.

HISTORY: 2000 Act No. 245, Section 7.

Library References

Fish 13(3), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 40, 42 to 44.

**SECTION 50‑5‑1325.** Stone crabs; claw size, removal and sale limitations; penalty.

 (A) It is unlawful to take or possess a stone crab or stone crab parts except as provided herein.

 (B) A stone crab having two claws may be temporarily taken for removal of the larger claw provided the larger claw is two and three‑fourths inches in length or larger measured by a straight line from the elbow to the tip of the lower immovable claw finger, and the crab must be returned immediately to the water.

 (C) It is unlawful to possess a female stone crab bearing visible eggs or to remove visible eggs or either claw from a female stone crab bearing visible eggs.

 (D) It is unlawful to possess, sell, or offer for sale any stone crab claw which has a forearm (propodus) of less than the size provided in subsection (B).

 (E) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty‑five dollars nor more than five hundred dollars or imprisoned for not more than thirty days.

HISTORY: 2000 Act No. 245, Section 7.

Library References

Fish 13(3), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 40, 42 to 44.

**SECTION 50‑5‑1330.** Horseshoe crab permits, taking and handling requirements; penalty.

 (A) Taking or possessing horseshoe crabs (Limulus polyphemus) is unlawful except under permit granted by the department. A permit is not required to possess a cast off or molted shell (exoskeleton) of a horseshoe crab.

 (B) The department may permit the taking or possession of horseshoe crabs. Permits granted under this section may include provisions as to lawful fishing areas; minimum size requirements for horseshoe crabs; mesh size and dimensions of nets and other harvesting devices; by catch requirements; fishing times or periods; catch reporting requirements; holding facilities, conditions, and periods; and other conditions the department determines.

 (C) Horseshoe crabs from which blood is collected for production of amebocyte lysate may be held in facilities approved by the department and must be handled so as to minimize injury to the crab. Horseshoe crabs collected in this State must be returned unharmed to state waters of comparable salinity and water quality as soon as possible after bleeding unless subsequent retention is permitted.

 (D) The taking of horseshoe crabs incidentally during legal fishing operations does not violate this section if the crabs are returned immediately to the water unharmed.

 (E) The department may grant permits to institutions and persons engaged in science instruction or curation to possess horseshoe crabs or parts thereof for such purposes, and permittees are not required to be licensed under this chapter.

 (F) No horseshoe crab collected in South Carolina may be removed from this State.

 (G) A person who violates this section or a condition of a permit issued hereunder is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty‑five dollars nor more than five hundred dollars or imprisoned for not more than thirty days. Each horseshoe crab or part thereof in violation is a separate offense.

HISTORY: 2000 Act No. 245, Section 7; 2002 Act No. 342, Section 51; 2013 Act No. 7, Section 8, eff March 22, 2013.

Effect of Amendment

The 2013 amendment, in subsection (A), added the second sentence, regarding possession of a molted shell; and in subsection (E), deleted “no more than five” following “to possess”.

Library References

Fish 13(3), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 40, 42 to 44.

**SECTION 50‑5‑1335.** Use of blue crab traps in certain locations.

 It is unlawful to set a trap used for taking blue crab for commercial purposes within these waters of the State:

 (1) Pawley’s Island Creek and Midway Creek on Pawley’s Island in Georgetown County;

 (2) one hundred fifty feet of the mean low tide watermark on Atlantic Ocean shoreline of Pawley’s Island in Georgetown County;

 (3) DeBordieu Creek and its tributaries and distributaries above the entrance to Bass Hole Creek and seaward of the causeways of Luvan Boulevard in Georgetown County;

 (4) the Sampit River above a line connecting the point on the eastern shoreline of Sampit River at its confluence with Winyah Bay at latitude 33° 21.08’ N, longitude 79° 16.71’ W and the point on the western shoreline of Winyah Bay generally south of its confluence with Sampit River at latitude 33° 20.68’ N, longitude 79° 16.90’ W in Georgetown County; and

 (5) Little Chechessee Creek in Beaufort County.

HISTORY: 2000 Act No. 245, Section 22; 2002 Act No. 247, Section 1; 2003 Act No. 60, Section 6; 2013 Act No. 7, Section 9, eff March 22, 2013.

Effect of Amendment

The 2013 amendment, in the introductory paragraph, substituted “set a trap used for taking blue crab” for “set or use a blue crab trap”.

Library References

Fish 13(3).

Westlaw Topic No. 176.

C.J.S. Fish Section 40.

**SECTION 50‑5‑1340.** Repealed by 2012 Act No. 7, Section 12, March 22, 2013.

Editor’s Note

Former Section 50‑5‑1340 was entitled “Commercial use of crab pots in Little Chechessee Creek in Beaufort County prohibited” and was derived from 2001 Act No. 70, Section 2.

ARTICLE 15

Anadromous and Catadromous Finfish

**SECTION 50‑5‑1500.** Regulation of devices for taking shad, herring, or eels.

 (A) This article governs specific diadromous fisheries in both freshwaters and salt waters.

 (B) The department may restrict the number of devices for taking shad, herring, or eels in any body of water because of statutory limitations on placement of devices or to prevent congestion of devices or watercraft or for conservation purposes. The department may grant permits to commercial saltwater or commercial freshwater fishermen for this purpose. Permits may be limited in number and may be conditioned so as to designate areas, size, and take limits, hours, type, and amount of equipment, and catch reporting requirements.

HISTORY: 2000 Act No. 245, Section 8; 2010 Act No. 200, Section 4, eff May 28, 2010.

Effect of Amendment

The 2010 amendment rewrote the section.

Federal Aspects

Fishery Conservation and Management Act (Public Law 94‑265), see 16 U.S.C.A. Sections 1801 et seq.

Library References

Fish 10(1), 13(2), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 28, 35, 42 to 44.

**SECTION 50‑5‑1505.** Taking of shad, herring, or sturgeon.

 The department must monitor the various drainage basins and water bodies of this State and may promulgate regulations to set seasons, take (catch) and size limits, areas, methods, times, equipment requirements, and catch reporting requirements for taking of shad, herring, and sturgeon as needed for proper management in each basin or water body as a zone. It is unlawful to take or attempt to take shad, herring, or sturgeon except as authorized by this article. It is unlawful to possess more than the legal limit of shad, herring, or sturgeon.

HISTORY: 2000 Act No. 245, Section 8; 2001 Act No. 5, Section 1; 2001 Act No. 12, Section 1; 2001 Act No. 20, Sections 1, 2; 2002 Act No. 183, Sections 1, 2; 2002 Act No. 342, Section 32.

Library References

Fish 8.

Westlaw Topic No. 176.

C.J.S. Fish Sections 24 to 26.

**SECTION 50‑5‑1506.** Zones, seasons, times catch limits, size limits, methods, and equipment for taking shad.

 In addition to other provisions of law, the following provisions govern seasons, times, methods, equipment, size limits, and take limits in commercial fishing for shad in the waters of this State specified below:

 (a) Black River, Great Pee Dee River, Little Pee Dee River, Lynches River, Waccamaw River from Big Bull Creek to Winyah Bay, Winyah Bay, and all tributaries and distributaries thereto as follows:

 (i) Pee Dee River and tributaries above U.S. Highway 701 and Black River:

 (1) Season: January 15 through April 15;

 (2) Times: noon Monday through noon Saturday;

 (3) Methods and equipment: Any lawful method and equipment;

 (4) Size and take limits: No limits.

 (ii) Remainder of Winyah Bay system including all of Big Bull Creek and Waccamaw River with tributaries below the entrance of Big Bull Creek:

 (1) Season: January 15 through April 1;

 (2) Times: Monday noon to Saturday noon, local time;

 (3) Methods and equipment: No restriction provided drift nets of not more than nine hundred feet in length are allowed in Waccamaw River between Butler Island and U.S. Highway 17 during lawful times;

 (4) Size and take limits: No limits.

 (b) Santee River below Wilson Dam including the Rediversion Canal below St. Stephen Dam, North Santee River and Bay, South Santee River, and all tributaries and distributaries thereto as follows:

 (i) Rediversion Canal from St. Stephen Dam seaward to the seaward terminus of the northern dike of the Rediversion Canal:

 Season: No open season;

 (ii) Rediversion Canal from the seaward terminus of the northern dike of the Rediversion Canal seaward to Santee River:

 (1) Season: January 15 through April 15;

 (2) Times: 7:00 a.m. to 7:00 p.m. local time, Tuesday and Thursday;

 (3) Methods and equipment: Any lawful method and equipment;

 (4) Size and take limits: No limits.

 (iii) Wilson Dam seaward to U.S. Highway 52 bridge:

 Season: No open season.

 (iv) U.S. Highway 52 bridge seaward to S.C. Highway 41 bridge:

 (1) Season: January 15 through April 15;

 (2) Times: 7:00 a.m. to 7:00 p.m. local time, Tuesday and Thursday;

 (3) Methods and equipment: Any lawful method and equipment;

 (4) Size and take limits: No limits.

 (v) S.C. Highway 41 bridge seaward:

 (1) Season: January 15 through March 15;

 (2) Times: Monday noon to Saturday noon, local time;

 (3) Methods and equipment: Any lawful method and equipment;

 (4) Size and take limits: No limits.

 (c) Wando River and Cooper River seaward to the U.S. Highway 17 bridges, Charleston Harbor, Ashley River, and all tributaries and distributaries thereto as follows:

 (i) Tailrace Canal from Wadboo Creek to the Jefferies Power Plant:

 Season: No open season.

 (ii) Cooper River from Wadboo Creek to U.S. Highway 17:

 Season: No open season.

 (iii) Ashley River seaward to its confluence with Popper Dam Creek:

 (1) Season: No open season;

 (2) Reserved

 (3) Reserved

 (4) Reserved

 (iv) Remainder of the Charleston Harbor system:

 (1) Season: No open season;

 (2) Reserved

 (3) Reserved

 (4) Reserved

 (d) Edisto River Estuary, Edisto River, North and South Branches (Forks) of the Edisto River, and all tributaries and distributaries thereto as follows:

 (i) Above U.S. Highway 15 bridge:

 (1) Season: February 1 through March 30;

 (2) Times: Tuesday noon to Saturday noon, local time;

 (3) Methods and equipment: Any lawful method and equipment;

 (4) Size and take limits: No limits.

 (ii) Seaward of U.S. Highway 15 bridge and above U.S. Highway 17 bridge:

 (1) Season: February 1 through March 30;

 (2) Times: Tuesday noon to Saturday noon, local time;

 (3) Methods and equipment: Any lawful method and equipment;

 (4) Size and take limits: No limits.

 (iii) Seaward of U.S. Highway 17 bridge:

 (1) Season: February 1 through March 30;

 (2) Times: Wednesday noon to Friday midnight, local time;

 (3) Methods and equipment: Any lawful method and equipment;

 (4) Size and take limits: No limits.

 (e) Ashepoo River and all tributaries and distributaries thereto as follows:

 (1) Season: No open season;

 (2) Reserved

 (3) Reserved

 (4) Reserved

 (f) Combahee River and all tributaries and distributaries thereto as follows:

 (i) Tributaries and distributaries, except main stems of Salkehatchie Rivers:

 Season: No open season.

 (ii) Main river including main stems of Salkehatchie Rivers:

 (1) Season: February 1 through March 15;

 (2) Times: For anchored nets, Tuesday noon to Friday noon, local time; for driftnets, Monday noon to Saturday noon, local time;

 (3) Methods and equipment: Any lawful method and equipment;

 (4) Size and take limits: No limits.

 (g) Coosawhatchie River and all tributaries and distributaries thereto as follows:

 Season: No open season.

 (h) South Carolina portions of Savannah River and all tributaries and distributaries thereto as follows:

 (i) Main river below U. S. Highway 301 and above U. S. Interstate Highway 95:

 (1) Season: January 1 through April 15;

 (2) Times: 7:00 a.m. Wednesday to 7:00 p.m. Saturday, local time;

 (3) Methods and equipment: Any lawful method and equipment;

 (4) Size and take limits: No limits.

 (ii) Tributaries and distributaries above U.S. Interstate Highway 95 bridge:

 Season: No open season.

 (iii) Seaward of U.S. Interstate Highway 95 bridge.

 (1) Season: January 1 through March 31. Taking or attempting to take shad with anchored nets is prohibited at all times in the Savannah River’s Little Back River, Back River and the north channel of the Savannah River downstream from the New Savannah Cut;

 (2) Times: 7:00 a.m. Tuesday to 7:00 p.m. Friday, local time;

 (3) Methods and equipment: Any lawful method and equipment;

 (4) Size and take limits: No limits.

 (i) Atlantic Ocean territorial sea as follows:

 (1) Season: No open season;

 (2) Reserved

 (3) Reserved

 (4) Reserved

 (j) Lake Moultrie, Lake Marion, Diversion Canal, Intake Canal of Rediversion Canal, and all tributaries and distributaries thereto as follows:

 (1) Season: No closed season;

 (2) Times: No restrictions;

 (3) Methods and equipment: Cast net and lift net for bait;

 (4) Size and take limits: Two hundred fifty pounds per boat per day combined catch of herring and shad.

HISTORY: 2002 Act No. 342, Section 33; 2004 Act No. 252, Section 1; 2012 Act No. 249, Section 4, eff June 18, 2012.

Effect of Amendment

The 2012 amendment rewrote the section.

Library References

Fish 10(2).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

**SECTION 50‑5‑1507.** Zones, seasons, times, catch limits, size limits, methods, and equipment for taking herring.

 In addition to other provisions of law, the following provisions govern seasons, times, methods, equipment, size limits, and take limits in commercial fishing for herring in the waters of this State:

 (a) Black River, Little Pee Dee River, Lynches River, Sampit River, and the Waccamaw River from its northern ocean outlet at Little River to Winyah Bay, and Winyah Bay:

 Season: No open season.

 (b) Great Pee Dee River:

 (1) Season: February 15 through April 15;

 (2) Times: 7:00 a.m. Wednesday to 7:00 p.m. Saturday, local time;

 (3) Methods and equipment: Any lawful method and equipment;

 (4) Size and take limits: No limits.

 (c) Santee River below Wilson Dam including the Rediversion Canal below St. Stephen Dam, North Santee River and Bay, South Santee River, and all tributaries and distributaries as follows:

 (i) Santee River below the cable and buoys marking the seaward boundary of the Wilson Dam Sanctuary designated by the department seaward to Wilson Dam Boat Landing:

 (1) Season: February 15 through April 30, for herring only;

 (2) Times: Sunrise Monday to sunset Thursday, as locally published;

 (3) Methods and equipment: Cast net and seine net. A seine may not exceed one hundred yards in total length. The mesh of the seine must not be less than one‑half inch square. All fish except those used for live bait must be containerized in one bushel units before landing;

 (4) Size and take limits: Ten U.S. bushels each boat each day including lawful incidental catch; harvest must not be transferred between boats; and an additional boat must not be used to increase a person’s daily take.

 (ii) Rediversion Canal:

 (1) Season: March 1 through April 30;

 (2) Times: 7:00 p.m. to 12:00 p.m. EST, or 8:00 p.m. to 12:00 p.m. DST;

 (3) Methods and equipment: Circular drop nets with a maximum six‑foot diameter, lift nets, and cast nets allowed; other equipment prohibited; nets must be operated by hand; trawling prohibited; culling prohibited; all fish, except those used for live bait, must be containerized in units of one hundred pounds maximum weight before landing; all fishing is prohibited within one hundred feet of the fish lift exit channel at St. Stephen Powerhouse, except with hook and line from March 1 through April 15;

 (4) Size and take limits: Ten U.S. bushels each boat each day including lawful incidental catch; harvest must not be transferred between boats; and an additional boat must not be used to increase a person’s daily take.

 (iii) Santee River seaward of Wilson Boat Landing:

 Season: No open season.

 (d) Charleston Harbor System including Wando River and Cooper River seaward to the U.S. Highway 17 bridges, Charleston Harbor, Ashley River, and all tributaries and distributaries as follows:

 (i) Tailrace Canal from CSX Railroad Bridge to the Jefferies Power Plant Sanctuary line:

 (1) Season: March 1 through April 30;

 (2) Times: Sunrise as locally published to 10:00 p.m.;

 (3) Methods and equipment: Circular drop nets with a maximum six‑foot diameter, lift nets, and cast nets allowed; other equipment prohibited; nets must be operated by hand; trawling prohibited; culling prohibited; all fish, except those used for live bait, must be containerized in units of one hundred pounds maximum weight before landing;

 (4) Size and take limits: Ten U.S. bushels each boat each day; harvest must not be transferred between boats and an additional boat must not be used to increase a person’s daily take.

 (ii) Cooper River from CSX Railroad to U.S. Highway 17 bridges:

 Season: No open season.

 (iii) Charleston Harbor system excluding Tailrace Canal and Cooper River seaward to U.S. Highway 17 bridges:

 (1) Season: February 15 through April 15;

 (2) Times: No restrictions;

 (3) Methods and equipment: Any lawful method and equipment;

 (4) Size and take limits: No limits.

 (e) Lake Moultrie, Lake Marion, Diversion Canal, Intake Canal of Rediversion Canal, and all tributaries and distributaries as follows:

 (1) Season: No closed season;

 (2) Times: No restrictions;

 (3) Methods and equipment: Cast net, lift net, and hook and line;

 (4) Size and take limits: Two hundred fifty pounds each boat each day combined catch of shad and herring and other lawful incidental catch.

 (f) Lake Jocassee and all tributaries and distributaries as follows:

 (1) Season: No closed season;

 (2) Times: No restrictions;

 (3) Methods and equipment: Hook and line;

 (4) Size and take limits: No limits.

 (g) Lake Keowee and all tributaries and distributaries as follows:

 (1) Season: No closed season;

 (2) Times: No restrictions;

 (3) Methods and equipment: Cast net and hook and line;

 (4) Size and take limits: No limits.

 (h) Lake Hartwell and all tributaries and distributaries as follows:

 (1) Season: No closed season;

 (2) Times: No restrictions;

 (3) Methods and equipment: Cast net and hook and line;

 (4) Size and take limits: No limits.

 (i) Lake Richard B. Russell and all tributaries and distributaries as follows:

 (1) Season: No closed season;

 (2) Times: No restrictions;

 (3) Methods and equipment: Cast net and hook and line;

 (4) Size and take limits: No limits.

 (j) Lake J. Strom Thurmond and all tributaries and distributaries as follows:

 (1) Season: No closed season;

 (2) Times: No restrictions;

 (3) Methods and equipment: Cast net and hook and line;

 (4) Size and take limits: No limits.

 (k) Savannah River and all tributaries and distributaries as follows:

 Seaward of the Augusta Diversion Dam

 Season: No open season.

 (l) Lake Secession, Stevens Creek Reservoir, and all tributaries and distributaries as follows:

 (1) Season: No closed season;

 (2) Times: No restrictions;

 (3) Methods and equipment: Cast net and hook and line;

 (4) Size and take limits: No limits.

 (m) Lake Greenwood, Lake Murray, Saluda River between Buzzards Roost (Lake Greenwood Dam) and S.C. Highway 121, and all tributaries and distributaries as follows:

 (1) Season: No closed season;

 (2) Times: No restrictions;

 (3) Methods and equipment: Cast net and hook and line;

 (4) Size and take limits: No limits.

 (n) Catawba River impoundments, including Lake Wylie and Lake Wateree, and all tributaries and distributaries as follows:

 (1) Season: No closed season;

 (2) Times: No restrictions;

 (3) Methods and equipment: Cast net and hook and line;

 (4) Size and take limits: No limits.

 (o) Lake Monticello and all tributaries and distributaries as follows:

 (1) Season: No closed season;

 (2) Times: No restrictions;

 (3) Methods and equipment: Cast net and hook and line;

 (4) Size and take limits: No limits.

HISTORY: 2002 Act No. 342, Section 34; 2012 Act No. 112, Section 1, eff February 1, 2012.

Effect of Amendment

The 2012 amendment rewrote subsection (a); inserted a new subsection (b), providing a season for the Great Pee Dee River; redesignated former subsections (b) to (i) as subsections (c) to (j); inserted a new subsection (k), providing no season for the Savannah River; redesignated (j) to (m) as subsections (l) to (o); and made other nonsubstantive changes.

Library References

Fish 10(2).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

**SECTION 50‑5‑1508.** Zones, seasons, times, catch limits, size limits, methods, and equipment for taking sturgeon.

 In addition to other provisions of law, the following provisions govern seasons, times, methods, equipment, size limits, and take limits in fishing for Atlantic sturgeon in the waters of this State:

 (a) Territorial sea:

 Season: No open season.

 (b) Internal waters:

 Season: No open season.

HISTORY: 2002 Act No. 342, Section 35.

Library References

Fish 10(2).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

**SECTION 50‑5‑1510.** Special provisions as to shad and herring.

 (A) The following special provisions apply to shad and herring:

 (1) It is unlawful to take shad by hook and line or by skim‑bow net while operating or possessing any commercial fishing equipment for taking shad or herring.

 (2) It is unlawful for a recreational fisherman to take shad or herring with any other fishing equipment except cast nets, skim‑bow nets, and hook and line which includes rod and reel, provided that a properly licensed gill net may be used to take shad or herring for recreational purposes. Except from sanctuaries designated by the department, a recreational fisherman may take shad or herring:

 (a) by hook and line and cast net at any time of the year,

 (b) by skim‑bow net from February 1 through April 30; and

 (c) by licensed gill net during those times provided in this article for commercial fishing.

 (3) It is unlawful to possess saltwater or freshwater gamefish or fishing tackle capable of taking saltwater or freshwater gamefish while taking or attempting to take shad or herring with gill nets.

 (4) Nongame fish taken in lawfully fished shad or herring nets or skim‑bow nets may be kept by the fisherman. Any Atlantic sturgeon caught during the closed season for Atlantic sturgeon and any gamefish must be returned immediately to the water.

 (5) It is unlawful to set a net in a fixed position in the navigation channel of the Atlantic Intracoastal Waterway.

 (6) A net used for shad in the territorial sea must have a stretched mesh size of no smaller than five and one‑half inches and be freely drift fished. The gill net must not be staked or otherwise set in a fixed position, tied to a boat, or anchored in any manner or in any way restricted in its movement. For the purpose of this section, “anchored” includes the use of any weight not part of the normal construction of the net.

 (7) No gill net may be left unattended while in the territorial sea, and any such net is contraband and must be seized and disposed of as provided in this chapter.

 (8) In the territorial sea no fisherman may set, fish, possess, or have aboard a boat shad or herring gill netting in excess of six thousand feet.

 (9) A gill net used for taking or attempting to take shad in the inshore salt waters of this State must have a stretched mesh size of no smaller than five and one‑half inches and a length not exceeding nine hundred feet. Gill nets for taking shad in the inshore salt waters of this State may be drift fished or set in accordance with this chapter. Only one shad gill net may be drift fished by occupants of a boat, and the drift net must be attended at all times when deployed. Additional boats in tow may not be used to increase the number of authorized nets.

 (10) Except as otherwise provided by law or by regulation promulgated under this article, any gill net used for taking or attempting to take shad in the freshwaters of this State must have a stretched mesh size of no smaller than five and one‑half inches and be no longer than six hundred feet. Gill nets for taking shad in the freshwaters of this State may be freely drift fished or set in accordance with the provisions of this chapter. Only one shad gill net may be drift fished by occupants of a boat, and the drift net must be attended at all times when deployed. Additional boats in tow may not be used to increase the number of authorized nets.

 (11) A gill net used for taking or attempting to take herring in the salt waters of this State must have a mesh size of two and one‑half inches stretched and a length no greater than nine hundred feet. Only one herring gill net may be used by occupants of a boat, and the drift net must be attended at all times when deployed. Additional boats in tow may not be used to increase the number of authorized nets.

 (12) A gill net used for taking or attempting to take herring in freshwaters must have a stretched mesh of two and one‑half inches stretched and a length no greater than six hundred feet.

 (13) A gill net used for taking or attempting to take shad or herring in the salt waters of this State must have at least one end buoy attached which has the name and license number of the owner clearly marked on it. A buoy not less than twenty inches in diameter must be attached to each end of the net, and in any net more than three hundred feet in length a buoy not less than ten inches must be attached every three hundred feet on the float line. All buoys must be international orange in color and must float so as to be clearly visible at all times.

 (14) A gill net used for taking or attempting to take shad or herring in the freshwaters of this State must be marked with buoys, international orange in color and not less than six inches in diameter, which float in a manner to be clearly visible at all times. One buoy must be attached to the float line of the net every three hundred feet, and a buoy must be attached to each end of each net. At least one end buoy attached to the net must have the name and license number of the owner clearly marked on it.

 (15) Skim‑bow nets must be used or fished only from high land or from a pier, dock, or other structure permanently affixed to high land without the aid of any power assisted device. Only shad, herring, and other nongame fish may be retained and no such fish may be sold.

 (B)(1) For a violation of subsection (A)(6) or (A)(8), a person is guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand dollars nor more than two thousand five hundred dollars or imprisoned for not more than thirty days and must have his saltwater privileges suspended for twelve months.

 (2) A person who takes or attempts to take shad or herring in violation of any other subsection of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty‑five dollars nor more than five hundred dollars or imprisoned for not more than thirty days.

 (3) Each net set or fished in violation of this section constitutes a separate offense.

HISTORY: 2000 Act No. 245, Section 8; 2002 Act No. 342, Section 36.

Library References

Fish 13(2).

Westlaw Topic No. 176.

C.J.S. Fish Section 35.

**SECTION 50‑5‑1515.** Shad hook and line catch limits.

 (A) Except as provided in this section, a person taking or attempting to take shad by cast net, skim‑bow net, or by hook and line including rod and reel may take or possess no more than an aggregate of ten American and hickory shad in any one day.

 (B) A person taking or attempting to take shad by hook and line including rod and reel in the Santee River may take or possess no more than an aggregate of twenty American and hickory shad in any one day.

 (C) No shad taken by cast net, skim‑bow net, or by hook and line including rod and reel may be sold, offered for sale, or purchased. In freshwaters, a person must hold a freshwater fishing license.

HISTORY: 2000 Act No. 245, Section 8; 2000 Act No. 401, Section 1; 2002 Act No. 342, Section 37.

Library References

Fish 13(1).

Westlaw Topic No. 176.

C.J.S. Fish Sections 30, 34 to 39.

Attorney General’s Opinions

The South Carolina Wildlife Resources Department may regulate shad fishing in the Edisto River (Decided under former Section 50‑17‑2110). 1967‑68 Op. Atty Gen, No 2589, p 302.

**SECTION 50‑5‑1520.** Herring catch limits.

 A person not licensed as a commercial saltwater fisherman taking or attempting to take herring by cast net or by hook and line, including rod and reel, may take or possess no more than an aggregate of one bushel of herring in any one day. In freshwaters, a person must hold a freshwater fishing license.

HISTORY: 2000 Act No. 245, Section 8.

Library References

Fish 13(1).

Westlaw Topic No. 176.

C.J.S. Fish Sections 30, 34 to 39.

**SECTION 50‑5‑1525.** Unlawful taking of Atlantic sturgeon; penalties.

 (A) Any sturgeon taken during the closed season or in closed areas or with unauthorized equipment must be released immediately back into the waters where taken.

 (B) A person taking or possessing any Atlantic sturgeon or any part or product thereof, except as allowed by regulations set by the department, is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars and not more than two thousand five hundred dollars or imprisoned for not more than thirty days.

 (C) A person taking or possessing for a commercial purpose, buying, or selling any Atlantic sturgeon or any part or product thereof, except as allowed by regulations set by the department, is guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand dollars and not more than two thousand five hundred dollars or imprisoned for not more than thirty days and must have his saltwater privileges suspended for twelve months.

HISTORY: 2000 Act No. 245, Section 8.

Library References

Fish 13(1), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 30, 34 to 39, 42 to 44.

**SECTION 50‑5‑1530.** Receiving Atlantic sturgeon; record keeping requirements; penalties.

 A person who receives Atlantic sturgeon or any part or product thereof other than at retail or for consumption must maintain records for a period of no less than one year. Records must include:

 (1) the number and weight of sturgeon received;

 (2) the type and amount of part or product received;

 (3) the names and addresses of persons from whom received; and

 (4) the names and addresses of persons to whom sold at wholesale.

 A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars nor more than one thousand dollars or imprisoned for not more than thirty days and the person’s or entity’s privilege to hold the wholesale seafood dealer license must be suspended for six months.

HISTORY: 2000 Act No. 245, Section 8.

Library References

Fish 13(1), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 30, 34 to 39, 42 to 44.

**SECTION 50‑5‑1535.** Taking of shortnose sturgeon prohibited; penalty.

 Notwithstanding any other provisions of law, it is unlawful for anyone to take, possess, buy, sell, or ship shortnose sturgeon (Acipenser brevirostrum) or any part or product thereof. Any shortnose sturgeon taken incidentally to fishing activity must be returned unharmed immediately to the water from where taken. A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than two thousand dollars and not more than five thousand dollars or imprisoned for not longer than one year, and must have his saltwater privileges suspended for ten years.

HISTORY: 2000 Act No. 245, Section 8.

Library References

Fish 13(1), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 30, 34 to 39, 42 to 44.

**SECTION 50‑5‑1540.** Net placement.

 (A) No shad, herring, or sturgeon net, including its cables, lines, or attached devices, either set, drift, or fished in the waters of this State may be of a length greater than one‑half the normal width of the water body at the place where used, regardless of the stage of the tide, river stage, water level, or method of net deployment.

 (B) No net may be:

 (1) set within six hundred feet of any gill net previously set;

 (2) drifted within six hundred feet of another drifting net; or

 (3) placed or set within seventy‑five feet of the confluence of any tributary.

 (C) Nothing in this section prevents a lawfully drifted gill net from passing within six hundred feet of a lawfully anchored gill net.

HISTORY: 2000 Act No. 245, Section 8; 2002 Act No. 342, Section 38.

Library References

Fish 13(2).

Westlaw Topic No. 176.

C.J.S. Fish Section 35.

**SECTION 50‑5‑1545.** Removal of nets during off times and periods; penalties.

 (A) During times and periods when taking of shad by net is not allowed, any net which could be used for taking shad must be removed from the waters.

 (B) During times and periods when taking of herring by net is not allowed, any net which could be used for taking herring must be removed from the waters.

 (C) During times and periods when taking of sturgeon by net is not allowed, any net which could be used for taking sturgeon must be removed from the waters.

 (D) Any nonmesh, net‑related fishing apparatus, including leads, cables, anchors, signs, and buoys must be removed from the waters and banks of the streams or water courses no later than three days after the close of the respective season. Any net or part thereof, including leads, cables, anchors, signs, and buoys found in violation of this section is contraband and must be seized and disposed of as provided by law.

 (E) Anchors with attached line and buoys may remain in lawful waters during weekly closed periods of the open season.

 (F) A person leaving a net or any part thereof, including any cables, leads, or anchors, in violation of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty‑five dollars nor more than five hundred dollars or imprisoned for not more than thirty days.

HISTORY: 2000 Act No. 245, Section 8.

Library References

Fish 13(2), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 35, 42 to 44.

**SECTION 50‑5‑1550.** Seizure of net or seine containing decomposed fish.

 Any net or seine set in the waters of this State which contains decomposed fish is contraband and must be seized and disposed of as provided in this chapter.

HISTORY: 2000 Act No. 245, Section 8.

Library References

Fish 16.

Westlaw Topic No. 176.

C.J.S. Fish Sections 45 to 46.

**SECTION 50‑5‑1555.** Commercial eel taking permits; conditions; penalty.

 (A) The department may grant permits to licensed commercial saltwater or freshwater fishermen to engage in the fishery for eels in the waters of this State for commercial purposes. A person taking American eels for commercial purposes must first acquire a permit from the department.

 (B) Permits granted under this section may be limited in number and may be conditioned so as to designate seasons, size limits, take or catch limits, hours, areas, fishing methods, type and amount of equipment, and catch reporting requirements.

 (C) The department may define an approved fyke net for the taking of eels in the waters of this State and may permit and limit its use by means of permits granted under this section.

 (D) A person who takes or attempts to take eels for a commercial purpose without first acquiring an eel permit is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars nor more than one thousand dollars or imprisoned for not more than thirty days.

HISTORY: 2000 Act No. 245, Section 8.

Library References

Fish 10(1), 13(1), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 28, 30, 34 to 39, 42 to 44.

**SECTION 50‑5‑1556.** Striped bass.

 (A) In the inshore waters, except for that portion of the Savannah River from the saltwater‑freshwater dividing line downstream to the mouth of the Savannah River defined by a line from Jones Island, S.C. (also known as Oysterbed Island) point at N. 32° 02’ 18” (N 32.03833°), W. 80° 53’ 21” (W 80.88917°); across Cockspur Island, Georgia, point at N. 32° 01’ 58” (N 32.03278°), W. 80° 52’ 56” (W 80.88222°) to Lazaretto Creek, Georgia, point at N 32° 01’ 2” (N 32.01722°), W. 80° 52’ 51” (W 80.88083°), and the territorial sea from June first through September thirtieth, it is unlawful to possess any striped bass (rockfish). Any striped bass taken must be returned immediately to the waters from where it came.

 (B) In the inshore waters, except for that portion of the Savannah River from the saltwater‑freshwater dividing line downstream to the mouth of the Savannah River defined by a line from Jones Island, S.C. (also known as Oysterbed Island) point at N. 32° 02’ 18” (N 32.03833°), W. 80° 53’ 21” (W 80.88917°); across Cockspur Island, Georgia, point at N. 32° 01’ 58” (N 32.03278°), W. 80° 52’ 56” (W 80.88222°) to Lazaretto Creek, Georgia, point at N 32° 01’ 2” (N 32.01722°), W. 80° 52’ 51” (W 80.88083°), and the territorial sea from October first through May thirty‑first it is unlawful to:

 (1) take or possess more than three striped bass per day;

 (2) take any striped bass less than twenty‑six inches in length; or

 (3) land any striped bass without the head and tail fin intact.

HISTORY: 2010 Act No. 193, Section 1, eff May 28, 2010.

**SECTION 50‑5‑1557.** Shad, herring, or eel sale requirements.

 A commercial fisherman who sells shad, herring, or eels must sell to either a licensed wholesale seafood dealer or a licensed bait dealer or must be licensed as a wholesale seafood dealer or bait dealer.

HISTORY: 2010 Act No. 200, Section 5, eff May 28, 2010.

Code Commissioner’s Note

At the direction of the Code Commissioner, this section was renumbered from 50‑5‑1557 to accommodate the new section added by 2010 Act No. 193, Section 1.

**SECTION 50‑5‑1560.** Penalty for offense for which no penalty prescribed; seizure and disposal of equipment.

 (A) A person who violates a provision of this article must be punished as directed by the individual sections. If no penalty is prescribed, the person is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty‑five dollars nor more than five hundred dollars or imprisoned for not more than thirty days.

 (B) In addition, the department must seize any boat, boat trailer, engine, net, rigging, related equipment, and catch of a person charged with a violation pertaining to setting nets in proximity to navigation jetties. Upon conviction, seized items are forfeited to the State and become contraband and must be disposed of as provided in this chapter.

HISTORY: 2000 Act No. 245, Section 8; 2002 Act No. 342, Section 39.

Library References

Fish 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 42 to 44.

ARTICLE 17

Estuarine and Saltwater Finfish

**SECTION 50‑5‑1700.** Taking of saltwater game fish; importation by wholesale or retail seafood dealer of red drum or spotted seatrout.

 (A) It is unlawful to sell, purchase, trade, or barter or attempt to sell, purchase, trade, or barter saltwater gamefish in this State regardless of where taken except as provided in this chapter.

 (B) It is unlawful to take or attempt to take saltwater gamefish in the waters of this State, except by:

 (1) hand‑held hook and line which includes rod and reel and pole; or

 (2) gigging during legal periods.

 Any saltwater gamefish taken by any other means must be returned immediately to the water.

 (C) It is unlawful for a person to have in possession a saltwater gamefish while fishing or transporting a seine or a gill net or other commercial fishing equipment. A saltwater gamefish caught in the net or commercial fishing equipment must be returned to the water immediately.

 (D) A wholesale or retail seafood dealer or other business may import cobia, red drum, or spotted seatrout from another state or country where the taking and sale of the fish is lawful. A copy of the bill of sale, bill of lading, or other proof of origin for each lot or shipment of the fish must accompany any fish resold and must be in the possession of the person or business offering imported cobia, red drum, or spotted seatrout for sale until it is sold to the ultimate consumer and must be retained by any seller for a period of one year.

 (E) It is unlawful to sell, purchase, trade, or barter or attempt to sell, purchase, trade, or barter cobia taken from state waters.

HISTORY: 2000 Act No. 245, Section 9; 2012 Act No. 249, Section 2, eff June 18, 2012.

Effect of Amendment

The 2012 amendment inserted “cobia,” throughout subsection (D) and made other, nonsubstantive, changes; and, inserted subsection (E).

Library References

Fish 13(1).

Westlaw Topic No. 176.

C.J.S. Fish Sections 30, 34 to 39.

**SECTION 50‑5‑1705.** Catch limits.

 (A) As used in this article, a day means sunrise on one day to sunrise on the following day.

 (B) The limits established in this article apply to all state waters.

 (C) It is unlawful for a person to take or have in possession more than ten spotted seatrout in any one day.

 (D) It is unlawful for a person to take or have in possession more than three red drum in any one day.

 (E) It is unlawful for a person to take or possess more than one tarpon in any one day or a tarpon of less than seventy‑seven inches in fork length.

 (F) It is unlawful for a person to take or have in possession more than five black drum (Pogonias cromis) in any one day.

 (G) It is unlawful for a person to take or possess more than ten flounder (Paralichthys species) taken by means of gig, spear, hook and line, or similar device in any one day, not to exceed twenty flounder in any one day on any boat.

 (H) It is unlawful for a person to take or have in possession more than one weakfish (Cynoscion regalis) in any one day.

 (I) It is unlawful for a person to take or possess more than ten sheepshead (Archosargus probatocephalus) in any one day, not to exceed thirty sheepshead in any one day on any boat.

 (J) It is unlawful for a person to take or possess in any one day more than fifty of a combination of the following: spot (Leiostomus xanthurus), whiting (Menticirrhus spp.), and Atlantic croaker (Micropogonias undulatus) taken by hook and line.

 (K) It is unlawful to take or possess hardhead catfish (Ariopsis felis) or gafftopsail catfish (Bagre marinus).

 (L) It is unlawful to gig for spotted seatrout or red drum from December first through the last day of February, inclusive.

 (M) It is unlawful to take or possess a great white shark (Carcharodon carcharias). Any great white shark that is caught must be released immediately and must remain completely in the water at all times while being released.

 (N) The possession limits do not apply to the possession or sale of properly identified fish imported by seafood dealers or produced by permitted mariculture operations, or to possession as allowed under permit authorized by this chapter.

HISTORY: 2000 Act No. 245, Section 9; 2001 Act No. 105, Section 2; 2007 Act No. 85, Section 2, eff upon approval (became law without the Governor’s signature on June 15, 2007); 2010 Act No. 169, Section 1, eff July 1, 2010; 2012 Act No. 210, Section 1, eff June 7, 2012; 2013 Act No. 7, Section 10, eff March 22, 2013; 2013 Act No. 50, Section 1, eff July 1, 2014; 2013 Act No. 72, Section 1, eff June 13, 2013; 2014 Act No. 205 (H.4551), Section 1, eff June 2, 2014; 2014 Act No. 211 (H.4945), Section 1, eff June 2, 2014; 2017 Act No. 72 (H.3665), Section 2, eff July 1, 2017.

Code Commissioner’s Note

At the direction of the Code Commissioner, the amendments made by 2014 Act No. 205 and 2014 Act No. 211 were read together. Subsection (L) added by 2014 Act No. 205, was redesignated subsection (M), and former subsection (M) was redesignated subsection (N).

Effect of Amendment

The 2007 amendment deleted subsection (A) relating to saltwater gamefish; redesignated subsections (B) to (E) as subsections (A) to (D); in subsection (C), substituted “three” for “two”; added subsection (E) relating to black drum Pogonias cromis; in subsection (F), added “, not to exceed forty flounder in any one day on any boat”; added subsection (G) relating to weakfish Cynoscion regalis and subsection (H) relating to catfish; and redesignated subsections (G) and (H) as subsections (I) and (J).

The 2010 amendment in subsection (G) substituted “one” for “ten”.

The 2012 amendment added subsection (H), relating to sheepshead, and renumbered prior subsections (I) and (J) as (J) and (K).

The 2013 amendment by 2013 Act No. 7, added subsection (B) and redesignated former subsections (B) through (K) as (C) through (L); and added parentheses around species names.

The 2013 amendment by 2013 Act No. 72, in subsection (E), substituted “possess” for “have in possession” and added at the end “or a tarpon of less than seventy‑seven inches in fork length”.

The 2013 amendment by 2013 Act No. 50, substituted “fifteen” for “twenty” and “thirty” for “forty” in paragraph (G).

2014 Act No. 205, Section 1, added subsection (M), relating to a great white shark, and redesignated former subsection (M) as subsection (N).

2014 Act No. 211, Section 1, added subsection (J), relating to limits for spot, whiting, and Atlantic croaker, and redesingated the subsections accordingly.

2017 Act No. 72, Section 2, in (G), substituted “more than ten flounder” for “more than fifteen flounder” and “twenty flounder” for “thirty flounder”.

Cross References

As to saltwater gamefish, see Section 50‑1‑30.

Library References

Fish 13(1).

Westlaw Topic No. 176.

C.J.S. Fish Sections 30, 34 to 39.

**SECTION 50‑5‑1707.** Repealed by 2009 Act No. 47, Section 1, eff June 2, 2009.

Editor’s Note

Former Section 50‑5‑1707 was entitled “Shark catch limits” and was derived from 2003 Act No. 7, Section 1.

**SECTION 50‑5‑1710.** Size limits.

 (A) The limits established in this article apply to all state waters.

 (B) Except as provided in Article 21, it is unlawful to take, possess, land, sell, purchase, or attempt to sell or purchase:

 (1) spotted seatrout (Cynoscion nebulosus) (winter trout) of less than fourteen inches in total length;

 (2) flounder (Paralichthys) of less than fifteen inches total length;

 (3) red drum (Sciaenops ocellatus) (channel bass or spottail bass) of less than fifteen inches in total length, or more than twenty‑three inches in total length;

 (4) black drum (Pogonias cromis) of less than fourteen inches or more than twenty‑seven inches in total length;

 (5) weakfish (Cynoscion regalis) of less than twelve inches in total length; or

 (6) sheepshead (Archosargus probatocephalus) of less than fourteen inches in total length.

 (C) The finfish species named in this section must be brought to the dock or landed with head and tail fin intact except for product produced by mariculture operations permitted under this chapter, provided that returning fish of unlawful size immediately to the water does not constitute a violation. A commercial retailer or restaurant may remove the head at the request of the ultimate consumer after completion of the transaction but before transfer of the purchase or serving of the dish.

HISTORY: 2000 Act No. 245, Section 9; 2001 Act No. 105, Section 3; 2007 Act No. 85, Section 3, eff upon approval (became law without the Governor’s signature on June 15, 2007); 2012 Act No. 210, Section 2, eff June 7, 2012; 2013 Act No. 7, Section 11, eff March 22, 2013; 2017 Act No. 72 (H.3665), Section 1, eff July 1, 2017.

Effect of Amendment

The 2007 amendment, in paragraph (A)(1), substituted “fourteen” for “thirteen”; in paragraph (A)(2), substituted “fourteen” for “twelve”; in paragraph (A)(3), substituted “twenty‑three” for “twenty‑four”; rewrote paragraph (A)(4) which pertained to black seabass; added paragraph (A)(5); and, in subsection (B), deleted the second sentence relating to black seabass.

The 2012 amendment added subsection (A)(6), and made other nonsubstantive changes.

The 2013 amendment added subsection (A) and redesignated former subsections (A) and (B) as (B) and (C); and added parentheses around species names.

2017 Act No. 72, Section 1, in (B)(2), substituted “fifteen inches” for “fourteen inches”.

Library References

Fish 13(1).

Westlaw Topic No. 176.

C.J.S. Fish Sections 30, 34 to 39.

**SECTION 50‑5‑1711.** Repealed by 2007, Act No. 85, Section 4, eff June 15, 2007.

Editor’s Note

Former Section 50‑5‑1711 was entitled “Limits on taking, possessing or selling dolphins and mahimahi; harvest, possession or sale of Sargassum; penalties” and was derived from 2000 Act No. 320, Section 1.

**SECTION 50‑5‑1715.** Penalties.

 A person who violates this article is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty‑five dollars nor more than five hundred dollars or imprisoned for not more than thirty days and must pay restitution to the department. Each fish taken, possessed, sold, offered for sale, purchased, or attempted to be sold, purchased, brought to the dock, or landed in violation of this article is a separate offense.

HISTORY: 2000 Act No. 245, Section 9; 2002 Act No. 342, Section 52.

Library References

Fish 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 42 to 44.

ARTICLE 19

Recreational Fisheries Conservation and Management

**SECTION 50‑5‑1900.** Article title.

 This article may be cited as the “South Carolina Recreational Fisheries Conservation and Management Act”.

HISTORY: 2000 Act No. 245, Section 10.

**SECTION 50‑5‑1905, 50‑5‑1910.** Repealed by 2009 Act No. 15, Section 10, eff July 1, 2009.

Editor’s Note

Former Section 50‑5‑1905 was entitled “Definitions” and was derived from 2000 Act No. 245, Section 10.

Former Section 50‑5‑1910 was entitled “Individual saltwater recreational fisheries stamp; charter fishing licenses; penalties” and was derived from 2000 Act No. 245, Section 10; 2000 Act No. 370, Section 5; 2002 Act No. 178, Section 2.

**SECTION 50‑5‑1915.** Charter fishing vessel and public pier logs; penalties.

 (A) Charter fishing vessels shall maintain a log of the number of persons carried each day, number of hours engaged in fishing, number of fish by species caught each day and other information considered necessary by the department. The logs must be submitted to the department monthly by the tenth day of the following month.

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

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

HISTORY: 2000 Act No. 245, Section 10; 2002 Act No. 342, Section 40; 2009 Act No. 15, Section 6, eff July 1, 2009.

Effect of Amendment

The 2009 amendment, in subsection (A), in the second sentence of the first paragraph substituted “to the department monthly by the tenth day of the following month” for “as prescribed or approved by the department”; and, in subsection (B), in the first sentence added “to the department monthly by the tenth day of the following month” and in the second sentence substituted “An owner or operator” for “A person” and “five hundred dollars” for “two hundred dollars”.

Library References

Fish 10(1), 13(1), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 28, 30, 34 to 39, 42 to 44.

**SECTIONS 50‑5‑1920, 50‑5‑1925.** Repealed by 2009 Act No. 15, Section 10, eff July 1, 2009.

Editor’s Note

Former Section 50‑5‑1920 was entitled “Saltwater recreational fisheries licenses; saltwater public fishing pier licenses; charter vessel licenses; fees” and was derived from 2000 Act No. 245, Section 10; 2000 Act No. 370, Section 6; 2002 Act No. 178, Section 3.

Former Section 50‑5‑1925 was entitled “Individuals exempt from purchase of stamp” and was derived from 2000 Act No. 245, Section 10; 2000 Act No. 370, Section 7.

**SECTION 50‑5‑1930.** Reciprocal recognition of recreational fisheries licenses issued by other coastal states.

 If a coastal state which has or establishes a saltwater recreational fisheries license recognizes through statute, regulation, or reciprocal agreement the validity of a South Carolina saltwater recreational fisheries license within its boundaries, South Carolina must recognize the validity of a corresponding license held on his person by residents of that state.

HISTORY: 2000 Act No. 245, Section 10; 2000 Act No. 370, Section 8; 2002 Act No. 178, Section 4.

Library References

Fish 10(1).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

United States Supreme Court Annotations

Constitutionality of state laws which discriminate against nonresidents or aliens as to fishing and hunting rights. 52 L Ed 2d 824.

Attorney General’s Opinions

Under former section 50‑17‑506, Georgia residents were permitted to trawl in South Carolina’s sounds (Decided under former Section 50‑17‑250). 1983 Op. Atty Gen, No. 83‑66, p. 105.

**SECTION 50‑5‑1935.** Commemorative stamps authorized.

 The department may produce stamps as commemorative or collectors items which must be sold for not less than five dollars and fifty cents. The stamp does not authorize recreational fishing. The proceeds must be retained by the department.

HISTORY: 2000 Act No. 245, Section 10; 2000 Act No. 370, Section 9; 2002 Act No. 178, Section 5.

Library References

Fish 10(1).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

**SECTION 50‑5‑1940.** Creation and design of stamps, licenses, prints, and related articles.

 The department may create and design the stamp and license and develop saltwater recreational fisheries prints and related articles. The department is responsible for the administration, sale, and distribution of the stamps, licenses, prints, and related articles.

HISTORY: 2000 Act No. 245, Section 10; 2002 Act No. 178, Section 6.

Library References

Fish 10(1).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

**SECTION 50‑5‑1945.** Repealed by 2009 Act No. 15, Section 10, eff July 1, 2009.

Editor’s Note

Former Section 50‑5‑1945 was entitled “Use of revenue from sale of stamps, licenses, prints, and related articles” and was derived from 2000 Act No. 245, Section 10; 2000 Act No. 370, Section 10.

**SECTION 50‑5‑1950.** Saltwater Recreational Fisheries Advisory Committee established; composition; compensation; term.

 (A) A Saltwater Recreational Fisheries Advisory Committee is established to assist in prioritizing the expenditures of monies received in the special account. The committee is composed of:

 (1) one member of the Board of the Department of Natural Resources to serve ex officio;

 (2) two at‑large members appointed by the Governor; and

 (3) one member from each of the following coastal counties appointed by a majority of the respective legislative delegations of Beaufort, Charleston, Colleton, Georgetown, Horry, Jasper, Dorchester, and Berkeley Counties.

 (B) The members in subsection (A)(2) and (3) shall represent the saltwater recreational fishing community.

 (C) Committee members shall be paid the usual mileage, subsistence, and per diem as prescribed by law for members of state boards, commissions, and committees to be paid from revenues from the sale of stamps, licenses, prints, and related articles.

 (D) The terms of members in subsection (A)(2) and (3) are for four years and are limited to two consecutive terms. Vacancies shall be filled for the remainder of the unexpired term in the manner of original appointment.

HISTORY: 2000 Act No. 245, Section 10; 2000 Act No. 370, Section 11; 2002 Act No. 178, Section 7.

Library References

States 45, 51, 62.

Westlaw Topic No. 360.

C.J.S. States Sections 88 to 89, 101 to 102, 145 to 146, 151, 153, 157 to 161, 169 to 170, 196 to 198, 202 to 204, 249.

**SECTION 50‑5‑2017.** Repealed by 2010 Act No. 140, Section 3, eff March 31, 2010.

Editor’s Note

Former Section 50‑5‑2017 was entitled “Flounder Population Study Program; catch limits” and was derived from 2009 Act No. 47, Section 3.

ARTICLE 21

Mariculture

**SECTION 50‑5‑2100.** Mariculture permits; penalty for failure to acquire.

 (A) The department may grant mariculture permits for collection, importation, and holding of saltwater gamefish, or for other fish for which there are size or possession limits, for brood stock and for the propagation, holding, transport, and processing of the fish produced through mariculture as defined in Section 50‑5‑15. Mariculture permits granted under this section may allow the take of such fish and may specify conditions related to lawful collection areas, equipment, collecting times and periods, catch and size limitations, holding facilities, and catch reporting requirements. The department may permit a mariculture operation to take and possess the fish outside of the size and possession limits provided in this chapter. The department may limit the number of permits granted for taking brood stock.

 (B) A person before engaging in any aspect of mariculture of saltwater gamefish or of any other fish for which there are size or possession limits must acquire a mariculture permit from the department.

 (C) A person who fails to acquire the proper permits or who violates any other provision of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned for not more than thirty days and must pay restitution to the department in an amount equal to the value of the fish. Each fish taken, imported, or possessed in violation of this section is a separate offense.

HISTORY: 2000 Act No. 245, Section 11; 2002 Act No. 342, Sections 41, 53.

Library References

Fish 10(1), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 28, 42 to 44.

**SECTION 50‑5‑2105.** Permits for licensed wholesale seafood dealers to sell undersize fish grown in mariculture operation; identification of fish; penalty.

 (A) The department may grant permits to licensed wholesale seafood dealers for sale of saltwater gamefish or for other fish for which there are size or possession limits, grown in permitted mariculture operations. Permits may be conditioned to include sales reporting requirements. Any licensed wholesale seafood dealer must first acquire a permit before selling or attempting to sell such fish.

 (B) Fish produced through permitted mariculture and marketed must be marked and identified as such, and each lot or shipment must be accompanied by a bill of sale, bill of lading, or other proof of origin.

 (C) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned for not more than thirty days. Each fish sold or offered for sale in violation of this section is a separate offense.

HISTORY: 2000 Act No. 245, Section 11; 2002 Act No. 342, Section 54.

Library References

Fish 10(1), 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 28, 42 to 44.

ARTICLE 23

Miscellaneous

**SECTION 50‑5‑2300.** Taking and possessing diamond‑backed terrapins; penalty.

 (A) It is unlawful to take or possess diamond‑backed terrapin for a commercial purpose. A person may possess no more than two diamond‑backed terrapin for a noncommercial purpose. Nothing in this section prohibits the incidental catch of terrapin by persons engaged in a lawful fishery when the terrapin are returned immediately to the water.

 (B) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned for not more than thirty days. Each terrapin taken or possessed in violation of this section constitutes a separate offense.

HISTORY: 2000 Act No. 245, Section 12; 2006 Act No. 246, Section 1.

Library References

Environmental Law 530.

Fish 13(1), 14.

Westlaw Topic Nos. 149E, 176.

C.J.S. Fish Sections 30, 34 to 39, 42 to 44.

C.J.S. Health and Environment Section 165.

**SECTION 50‑5‑2305.** Permit to remove live wild rock; penalty.

 (A) The department may grant permits to remove wild live rock solely for scientific or educational purposes.

 (B) The department shall:

 (1) facilitate the aquaculture of live rock in state waters;

 (2) establish a permitting system to enable interested parties to establish live rock culture operations within state waters, including ocean waters from three nautical miles or less offshore; and

 (3) promulgate regulations to guide the operation, maintenance, and harvesting activities of live rock culture operations.

 (C) It is unlawful for a person to engage in a directed effort to catch, take, remove, or harvest wild live rock from state waters for the purposes of sale or trade. The incidental take of wild live rock during trawling operations and the taking of wild live rock washed ashore and deposited upon a beach or shoreface are activities which are exempt from these restrictions if these exempt activities are not a directed effort to take wild live rock.

 (D) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than thirty days for the first offense, and fined not more than ten thousand dollars or imprisoned not more than one year, or both, for each subsequent offense.

HISTORY: 2000 Act No. 245, Section 12.

Library References

Environmental Law 530.

Fish 14.

Westlaw Topic Nos. 149E, 176.

C.J.S. Fish Sections 42 to 44.

C.J.S. Health and Environment Section 165.

**SECTION 50‑5‑2310.** Display of dolphins and whales prohibited; penalty.

 (A) It is unlawful for a person, which includes a corporation, to display a wild caught or captive‑bred mammal of the order Cetacean (dolphins and whales).

 (B) A person violating this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than six months.

HISTORY: 2000 Act No. 245, Section 12; 2011 Act No. 29, Section 1, eff May 23, 2011.

Effect of Amendment

The 2011 amendment rewrote the section.

Library References

Environmental Law 749.

Fish 14.

Westlaw Topic Nos. 149E, 176.

C.J.S. Fish Sections 42 to 44.

C.J.S. Health and Environment Section 160.

ARTICLE 25

Point System for Violations of Marine Resources Laws

**SECTION 50‑5‑2500.** Point values for suspension of saltwater privileges; relation to other penalties.

 (A) There are established the following point values to be assigned by the department in suspending the saltwater privileges of persons or entities found to be in violation of one or more of the items listed below. Point assignments shall be:

 (1) failing to keep records or make reports required by law, permit, or regulation: 4;

 (2) violating law pertaining to crab size limit or sponge crabs: 4;

 (3) violations of a section of Title 50 pertaining to saltwater privileges not mentioned specifically in this section: 6;

 (4) taking, attempting to take, or possessing fish, shellfish, or crustaceans in an unlawful manner, in unlawful or closed areas including areas closed by the Department of Health and Environmental Control, during unlawful hours, or during the closed season for the activity, except trawling violations: 8;

 (5)(a) taking, attempting to take, or possessing shellfish for a commercial purpose in an unlawful manner; in unlawful or closed areas, including areas closed by the Department of Health and Environmental Control; during unlawful hours; or during the closed season for the activity; or

 (b) violating Department of Health and Environmental Control regulations promulgated pursuant to Section 44‑1‑140 related to the harvesting and handling of shellfish resulting in an adulterated product as defined in Regulation 61‑47: 10;

 (6) selling or offering for sale fish, shellfish, crustaceans, or other seafood or marine products without a proper license: 8;

 (7) unlawfully buying fish, shellfish, crustaceans, or other seafood or marine products: 8;

 (8) trawling inside the General Trawling Zone other than in restricted areas:

 (a) more than one‑quarter nautical mile during the closed season: 10;

 (b) more than one‑quarter nautical mile at a time more than ten minutes before daily opening or ten minutes after daily closing times during the open season: 10;

 (9) trawling in a restricted area during closed season: 10;

 (10) trawling outside the General Trawling Zone:

 (a) one hundred yards or less distance from the nearest point of the General Trawling Zone during the open season: 10;

 (b) more than one hundred yards distance from the nearest point of the General Trawling Zone during the open season: 18;

 (c) during the closed season: 18;

 (11) taking or attempting to take fish, shellfish, or crustaceans for a commercial purpose without a proper license, permit, or stamp: 10;

 (12) captain or crew of a boat failing to cooperate with an enforcement officer: 18;

 (13) channel netting in an area closed to channel netting or during closed season for channel netting: 18; and

 (14) applying for or obtaining any resident license as provided in this chapter using a falsified application or supporting documentation, or simultaneously possessing any currently valid South Carolina resident license as provided in this chapter while possessing any resident license from another state: 18.

 (B) The points and penalties assessed under this article are in addition to criminal penalties which may be assessed. Statutory suspension of saltwater privileges provided in other articles of this chapter take precedence over assessment of points under this article.

HISTORY: 2000 Act No. 245, Section 13; 2017 Act No. 30 (S.465), Section 7, eff May 10, 2017.

Effect of Amendment

2017 Act No. 30, Section 7, in (A), substituted “one or more of the items listed below” for “this chapter”, inserted (A)(5), providing for violations related to harvesting and handling shellfish, and redesignated accordingly.

CROSS REFERENCES

Shellfish, see S.C. Code of Regulations R. 61‑47.

Library References

Fish 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 42 to 44.

**SECTION 50‑5‑2505.** Point system administration.

 (A) Each time a person is convicted of a violation enumerated in Section 50‑5‑2500 the number of points assigned to a violation must be charged against him under a point category. Point categories are:

 (1) commercial, and

 (2) recreational.

 Points resulting from any violation must be assigned under only one point category.

 (B) Points assigned for any violation for a commercial purpose except related to an activity authorized solely under a wholesale seafood dealer license must be assigned to the commercial category.

 (C) Points assigned for any violation not for a commercial purpose or not related to an activity authorized solely under a wholesale seafood dealer license must be assigned to the recreational category.

 (D) For each twelve‑month period in which the person received no points, the department shall deduct one‑half of the accumulated points under each point category if the number of points under that point category is greater than three. If a person has three or less points under a point category at the end of a calendar year in which no points were received, the department shall reduce his point total to zero under that point category.

 (E) Nothing in this article affects the action of the department in suspending, revoking, or canceling a license or permit when the action is mandatory under the laws of this State.

HISTORY: 2000 Act No. 245, Section 13; Act No. 342, Section 42.

Library References

Fish 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 42 to 44.

**SECTION 50‑5‑2510.** Suspension of saltwater privileges for accumulation of points.

 (A) The department must suspend for one year the related saltwater privileges and associated licenses, stamps, and permits issued to a person who has accumulated eighteen or more points under any point category. Privileges related to each point category are as follows:

 (1) commercial: any and all commercial saltwater fishing license, equipment license, and bait dealer license, and

 (2) recreational: marine recreational fishing stamp, pier license, charter fishing vessel license, shrimp baiting license, and any other saltwater licenses utilized for recreational purposes.

 (B) Any suspension under this article begins the eleventh day after the person or entity receives written notice by mail, return receipt requested, of the suspension and ends the same day the following year.

HISTORY: 2000 Act No. 245, Section 13; 2002 Act No. 342, Section 43.

CROSS REFERENCES

Commencement of running of suspension following conviction, see Section 50‑5‑55.

Library References

Fish 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 42 to 44.

**SECTION 50‑5‑2515.** Notice of suspension; request for review.

 Upon determination by the department that a person or entity has accumulated sufficient points to warrant the suspension of any saltwater privilege, the department must notify the person or entity in writing, return receipt requested, that his saltwater privilege has been suspended, and the person or entity must return all the suspended licenses, stamps, or permits in his name to the department within ten days.

HISTORY: 2000 Act No. 245, Section 13; 2002 Act No. 342, Section 44.

Library References

Fish 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 42 to 44.

**SECTION 50‑5‑2517.** Mammalian dolphin or porpoise; prohibited activities; penalty.

 Except when authorized by a federal permit, it is unlawful for any person to catch, attempt to catch, feed, feed by hand, kill, or harass any mammalian dolphin or porpoise. A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred fifty dollars nor more than one thousand dollars or imprisoned for not more than thirty days, or both.

HISTORY: 2002 Act No. 178, Section 1.

Library References

Environmental Law 749.

Fish 14.

Westlaw Topic Nos. 149E, 176.

C.J.S. Fish Sections 42 to 44.

C.J.S. Health and Environment Section 160.

**SECTION 50‑5‑2520.** Appeals.

 A person or entity whose saltwater privileges have been suspended may appeal the decision of the department under the Administrative Procedures Act.

HISTORY: 2000 Act No. 245, Section 13; 2002 Act No. 342, Section 45.

Library References

Fish 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 42 to 44.

**SECTION 50‑5‑2525.** Points cleared when suspension expires; concurrent running of suspensions.

 After the expiration of a period of suspension of saltwater privileges under a point category the person’s or entity’s record must be cleared of points in only that category. When a person’s or entity’s privileges are suspended under another article and the person or entity has accumulated enough points to be suspended under this article, the suspension will run concurrently. Where a violation actually results in a suspension of all saltwater fishing privileges under another article, no points shall be assigned under this system for the violation.

HISTORY: 2000 Act No. 245, Section 13.

Library References

Fish 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 42 to 44.

**SECTION 50‑5‑2530.** Administering of article.

 The department shall administer and enforce this article and may promulgate regulations for its implementation. The department must inform the public of the point system.

HISTORY: 2000 Act No. 245, Section 13.

Library References

Fish 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 42 to 44.

**SECTION 50‑5‑2535.** Engaging in prohibited activities while under suspension; penalties.

 A person engaging in activities prohibited by this chapter while the person is under suspension, is guilty of a misdemeanor and, upon conviction, for a first offense must be fined not less than five hundred dollars nor more than one thousand dollars or imprisoned thirty days and have all saltwater privileges suspended for an additional three‑year period. A person convicted of a second or subsequent offense under this section is guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand dollars nor more than two thousand five hundred dollars or imprisoned one year, and have all saltwater privileges suspended for an additional five years.

HISTORY: 2000 Act No. 245, Section 13.

Library References

Fish 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 42 to 44.

**SECTION 50‑5‑2536.** Other violations while under suspension.

 (A) While under suspension for recreational activities, any person found guilty of a commercial violation of this chapter shall have all saltwater privileges suspended for one year.

 (B) While under suspension for commercial activities, any person found guilty of a recreational violation of this chapter shall have all saltwater privileges suspended for one year.

HISTORY: 2000 Act No. 245, Section 13.

Library References

Fish 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 42 to 44.

**SECTION 50‑5‑2540.** Activities prohibited while under commercial suspension.

 (A) It is unlawful for a person whose commercial privileges are suspended under this chapter:

 (1) to take or attempt to take saltwater fish for commercial purposes; or

 (2) to be on board any vessel while the vessel is being utilized to take or in an attempt to take saltwater fish for commercial purposes. A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined five thousand dollars or imprisoned for not more than thirty days, and all saltwater privileges must be suspended for an additional period of five years.

 (B) No person for whom a saltwater privilege is suspended may purchase or acquire, or attempt to purchase or acquire, a license, permit, or stamp for any privilege which has been suspended. A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars nor more than five hundred dollars or imprisoned for not more than thirty days and by extension of the suspension period for twelve months.

 (C) No court may suspend any portion of the minimum fines or lengths of imprisonment provided in this section.

HISTORY: 2000 Act No. 245, Section 13.

Library References

Fish 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 42 to 44.

**SECTION 50‑5‑2545.** Prior points and suspensions.

 All points received prior to the effective date of the Marine Resources Act of 2000 shall be assigned under the “commercial category” and remain effective until the validity of these points no longer exists. All suspensions and actions prior to the Marine Resources Act of 2000 remain in effect under the previous mandates until expired.

HISTORY: 2000 Act No. 245, Section 13.

Library References

Fish 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 42 to 44.

ARTICLE 27

Interjurisdictional Fishery Management

**SECTION 50‑5‑2700.** Atlantic States Marine Fisheries Compact; members; term; vacancies.

 In pursuance of Article III of the Atlantic States Marine Fisheries Compact, of which this State is a signatory, there shall be three members, hereinafter called compact commissioners, of the Atlantic States Marine Fisheries Commission, hereinafter called the Compact Commission, from this State. The first compact commissioner from this State shall be the director of the department, ex officio. Notwithstanding the provisions of Section 8‑13‑770, the second compact commissioner from this State shall be a member of the General Assembly who is also a member of the Commission on Interstate Cooperation of this State, designated by the Commission on Interstate Cooperation to serve ex officio. The Governor, by and with the advice and consent of the Senate, shall appoint a citizen of this State as a third compact commissioner, who shall have a knowledge of and interest in the marine fisheries problem. The term of the compact commissioner shall be three years and he shall hold office until his successor shall be appointed and qualified. Vacancies occurring in the office of the commissioner for any reason or cause shall be filled by appointment by the Governor, by and with the advice and consent of the Senate, for the unexpired term. The director of the department as an ex officio commissioner may delegate, from time to time, to any deputy or other subordinate in his department or office, the power to be present and participate, including voting as his representative or substitute, at any meeting of or hearing by or other proceeding of the Compact Commission. These commissioners’ service shall begin when the compact has gone into effect in accordance with Article II thereof and also shall begin upon the date upon which the compact shall become effective in accordance with Article II.

HISTORY: 2000 Act No. 245, Section 14.

Library References

Fish 8.

States 6.

Westlaw Topic Nos. 176, 360.

C.J.S. Fish Sections 24 to 26.

C.J.S. States Sections 13, 67 to 71, 257.

**SECTION 50‑5‑2705.** Powers of Compact Commission and commissioners.

 The Compact Commission and the compact commissioners thereof shall have all the powers provided in the compact and all the powers necessary or incidental to the carrying out of the compact in every particular.

HISTORY: 2000 Act No. 245, Section 14.

Library References

Fish 8.

States 6.

Westlaw Topic Nos. 176, 360.

C.J.S. Fish Sections 24 to 26.

C.J.S. States Sections 13, 67 to 71, 257.

**SECTION 50‑5‑2710.** State officials to cooperate and furnish information.

 All officers of this State shall do all things falling within their respective provinces and jurisdiction necessary or incidental to the carrying out of the compact in every particular, it being hereby declared to be the policy of this State to perform and carry out the compact and to accomplish the purposes thereof. All officers, bureaus, departments, and persons of and in the state government or administration of this State shall at convenient times and upon request of the Compact Commission furnish the Compact Commission with information and data possessed by them and shall aid the Compact Commission with information and data possessed by them or by loan of personnel or other means lying within their legal rights respectively.

HISTORY: 2000 Act No. 245, Section 14.

Library References

Fish 8.

States 6, 73.

Westlaw Topic Nos. 176, 360.

C.J.S. Fish Sections 24 to 26.

C.J.S. States Sections 13, 67 to 71, 229, 240 to 249, 253, 257.

**SECTION 50‑5‑2715.** Records, reports, and recommendations.

 The Compact Commission shall keep accurate accounts of all receipts and disbursements and shall report to the Governor and the General Assembly on or before the tenth day of December in each year, setting forth in detail the transactions conducted by it during the preceding calendar year, and shall make recommendations for any legislative action it considers advisable, including amendments to the statutes of this State which may be necessary to carry out the intent and purposes of the compact between the signatory states.

HISTORY: 2000 Act No. 245, Section 14.

Library References

Fish 8.

States 6, 76.

Westlaw Topic Nos. 176, 360.

C.J.S. Fish Sections 24 to 26.

C.J.S. States Sections 13, 67 to 71, 257, 388 to 389.

**SECTION 50‑5‑2720.** Audits.

 The State Auditor may from time to time examine the accounts and books of the Compact Commission, including its receipts, disbursements, and such other items referring to its financial standing as the State Auditor may consider proper, and report the results to the State Budget and Control Board.

HISTORY: 2000 Act No. 245, Section 14.

Code Commissioner’s Note

At the direction of the Code Commissioner, reference in this section to the former Budget and Control Board has not been changed pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), until further action by the General Assembly.

Library References

Fish 8.

States 6, 76.

Westlaw Topic Nos. 176, 360.

C.J.S. Fish Sections 24 to 26.

C.J.S. States Sections 13, 67 to 71, 257, 388 to 389.

**SECTION 50‑5‑2725.** Shark catch limits; boat or vessel permit to take sharks for commercial purposes; equipment requirements and prohibitions.

 (A) Except as provided in this chapter, the size, catch, bag, and possession limits, fishing period closures, and requirements pertaining to the taking, release, landing, sale, purchase, trade, or barter of sharks or shark parts prescribed by those federal regulations implemented under the Fishery Conservation and Management Act (PL 94‑265) and pertaining to the Fishery Management Plan for Atlantic tuna, swordfish, and sharks are declared to be the law of this State and apply in state waters; provided, however, no federal recreational angling permit or federal charter boat/head boat permit is required for the taking or possession of sharks in the waters of this State. In state waters size, catch, bag, and possession limits pertain to individual fishermen when no vessel is utilized.

 (B) An annual permit must be obtained from the department for a boat or vessel before it takes sharks for commercial purposes in state waters. Permits granted under this section do not include income requirements but may include requirements for fishing times, periods, areas, gear, and equipment, catch limitations and reporting, and other conditions the department may determine to be necessary for management or regulatory purposes. In addition to department conditions, the use of gill nets to harvest sharks is prohibited in state waters at all times, and when taken by gill net, all sharks must be released immediately.

HISTORY: 2000 Act No. 245, Section 14; 2002 Act No. 342, Section 46; 2003 Act No. 7, Section 2.

Library References

Fish 10(1).

Westlaw Topic No. 176.

C.J.S. Fish Section 28.

**SECTION 50‑5‑2730.** Federal fishing regulations declared to be law of State; exceptions.

 (A) Unless otherwise provided by law, any regulations promulgated by the federal government under the Fishery Conservation and Management Act (PL 94‑265) or the Atlantic Tuna Conservation Act (PL 94‑70) which establishes seasons, fishing periods, gear restrictions, sales restrictions, or bag, catch, size, or possession limits on fish are declared to be the law of this State and apply statewide including in state waters.

 (B) This provision does not apply to:

 (1) black sea bass (Centropristis striata) whose lawful catch limit is five fish per person per day or the same as the federal limit for black sea bass, whichever is higher. The lawful minimum size is thirteen inches total length. Additionally, there is no closed season on the catching of black sea bass (Centropristis striata); or

 (2) cobia (Rachycentron canadum) located in the Southern Cobia Management Zone. Subject to the size limit established by federal regulation, possession of cobia caught in the Southern Cobia Management Zone is limited to one per person per day, and no more than three per boat per day, from June 1 to April 30. It is unlawful to take and possess cobia in the Southern Cobia Management Zone from May 1 to May 31, and at any time federal regulations provide for the closure of the recreational cobia season in the waters of the South Atlantic Ocean.

HISTORY: 2000 Act No. 245, Section 14; 2002 Act No. 342, Section 47; 2013 Act No. 83, Section 1, eff June 13, 2013; 2016 Act No. 166 (H.4709), Section 2, eff April 29, 2016.

Effect of Amendment

The 2013 amendment designated paragraph (A) and added paragraph (B).

2016 Act No. 166, Section 2, in (B), inserted paragraph designator (1), and added (2), relating to cobia.

Library References

Fish 13(1).

Westlaw Topic No. 176.

C.J.S. Fish Sections 30, 34 to 39.

**SECTION 50‑5‑2740.** Penalty for violation of article.

 A person who violates this article is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty‑five dollars nor more than five hundred dollars or imprisoned for not more than thirty days and must pay restitution to the department. Each fish, lobster, or other marine resource taken, possessed, sold, offered for sale, purchased, or attempted to be sold, purchased, brought to the dock, or landed in violation of this article is a separate offense.

HISTORY: 2000 Act No. 245, Section 14; 2002 Act No. 342, Section 55.

Library References

Fish 14.

Westlaw Topic No. 176.

C.J.S. Fish Sections 42 to 44.