

1 HB311
2 182559-1
3 By Representatives Hanes, Sessions and Williams (JW)
4 RFD: Agriculture and Forestry
5 First Read: 23-FEB-17

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8 SYNOPSIS: Under existing law, the issuance of net and
9 seine permits for commercial fishing is limited and
10 certain permits are not transferable under any
11 circumstances including physical hardship, and
12 applicants for renewal are required to have
13 previously purchased a license and to meet certain
14 income requirements in subsequent years.

15 This bill would delete the requirement for
16 proof of income under Alabama income tax law for
17 renewal of permits.

18
19 A BILL
20 TO BE ENTITLED
21 AN ACT

22
23 To amend Section 9-12-113 of the Code of Alabama
24 1975, relating to commercial fishing and net and seine
25 permits; to further provide for the renewal of permits without
26 regard to the income requirements.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 9-12-113 of the Code of Alabama
2 1975, is amended to read as follows:

3 "§9-12-113.

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

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

9 "a. One hundred dollars (\$100) for commercial
10 fishing.

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

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

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

19 "a. Two hundred dollars (\$200) for commercial
20 fishing.

21 "b. One thousand five hundred dollars (\$1,500) for
22 each net or seine permit, plus an additional two thousand five
23 hundred dollars (\$2,500) per permit for the taking of Roe
24 Mullet and Spanish Mackerel, as defined by regulation of the
25 Department of Conservation and Natural Resources.

26 "c. Three thousand dollars (\$3,000) for each purse
27 seine license except where the nonresident of the State of

1 Alabama is a resident of a state which has a reciprocal
2 fishing agreement with the State of Alabama, in which case the
3 fee shall be the same as the fee for an Alabama resident in
4 that state.

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

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

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

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

23 "(4) A commercial fishing license shall not be
24 required for a commercial gill net license holder validly
25 licensed under this section, in order for the licensee to
26 take, possess, or sell his or her catch taken with a gill net,
27 seine, or other entangling net, nor shall it be required for

1 the taking, possession, and sale of finfish taken with a
2 licensed commercial shrimp boat.

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

19 "(c) In addition to all other requirements to be
20 permitted pursuant to this section, except as otherwise
21 provided for residents age 62 years or older under certain
22 conditions as may be subsequently determined by the
23 department, all applicants for net and seine permits shall
24 submit the following:

25 "(1) Proof that the applicant purchased a license
26 under this section in at least two of the five years during
27 the period of 1989 through 1993 and proof, in the form of

1 unamended original income tax returns including Alabama state
2 income tax returns for all applicants in accordance with
3 procedures established by departmental regulations, that the
4 applicant recognized his or her applicable Alabama income and
5 derived at least 50 percent of his or her gross income from
6 the capture and sale of seafood species in at least two of the
7 five years during the period of 1989 through 1993 and in
8 subsequent years for annual renewal until the license year
9 ending on September 30 after the effective date of this
10 amendatory act; or

11 "(2) Proof that the applicant purchased a license
12 under this section every year from 1989 through 1993, and,
13 unless exempt from filing under the Alabama income tax law,
14 proof that the applicant filed an Alabama income tax return
15 from 1989 through 1993, and in subsequent years for annual
16 renewal until on the license year ending on September 30 after
17 the effective date of this amendatory act.

18 "For the license year beginning October 1, 1997,
19 only, any permittee who obtained a net and seine permit
20 pursuant to subdivision (2) may obtain a permit transferable
21 in the same manner as a permit pursuant to subdivision (1)
22 upon submitting proof in the form of unamended original income
23 tax returns including Alabama state income tax returns for all
24 applicants in accordance with procedures established by
25 departmental regulations, that the applicant recognized his or
26 her applicable Alabama income and derived at least 50 percent
27 of his or her gross income in 1996 from the capture and sale

1 of seafood species, ~~provided the permittee must meet the gross~~
2 ~~income requirements to continue to renew a permit issued~~
3 ~~pursuant to subdivision (1) in subsequent years. A permittee~~
4 ~~who receives a permit pursuant to the provision in the~~
5 ~~preceding sentence may not receive a permit pursuant to~~
6 ~~subdivision (2) thereafter. The Alabama Department of Revenue~~
7 ~~shall verify, upon request, to the Director of the Marine~~
8 ~~Resources Division of the Alabama Department of Conservation~~
9 ~~and Natural Resources the income tax return of the applicant~~
10 ~~if the applicant authorizes the release of the information.~~
11 ~~Authorization by the applicant to release the information~~
12 ~~shall be a prerequisite for a permit. After the effective date~~
13 ~~of the act adding this sentence, a person issued a permit~~
14 ~~pursuant to this subsection in the license year commencing on~~
15 ~~October 1 after the effective date of this amendatory act, or~~
16 ~~thereafter, shall not be required to submit proof of income in~~
17 ~~order to renew a permit.~~

18 "(d) Only one permit shall be issued per individual.
19 The department shall issue each permittee one decal or placard
20 which shall be visibly displayed on the permittee's designated
21 vessel or vessels in accordance with regulations promulgated
22 by the Department of Conservation and Natural Resources. The
23 decal or placard may only be displayed on an Alabama
24 registered vessel and may not be displayed on an out-of-state
25 registered vessel. A permittee shall have only one net or
26 seine in use at any time and shall be present and have the
27 permit in his or her possession when the net or seine is in

1 use or in transit, provided the presence of the permittee
2 shall not be required when the boat is docked, refueling, or
3 at a launch site.

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

22 "(f) All permits issued shall be issued to
23 individual persons only. A purse seine license may be issued
24 to a person, firm, or corporation. A nonresident, as mentioned
25 in this section, for the purposes of all permits issued, is
26 defined to be any person who has not been continuously
27 domiciled in this state for more than one continuous year

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

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

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

1 advisable or in lieu of forfeiture, the court may impose
2 additional fines.

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

16 "(j) In addition to any other penalties provided in
17 this section, a violation of this section or any regulation
18 promulgated pursuant to this section, shall be a Class B
19 misdemeanor punishable as provided by law; provided, however,
20 that there shall be a mandatory minimum fine of two thousand
21 dollars (\$2,000) for first offenses of utilizing a net or
22 seine without the required license or permit hereunder, and
23 any subsequent violation of subsection (a) committed within a
24 three-year period of the date of conviction shall be a Class A
25 misdemeanor, punishable by a mandatory minimum fine of three
26 thousand dollars (\$3,000) and a mandatory minimum imprisonment
27 of 10 days. Any person violating this section or any

1 regulation promulgated pursuant to this section shall be
2 strictly liable and it shall not be necessary to prove any
3 criminal intent for conviction.

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

16 "(1) Sale, purchase, trade or barter of game fish,
17 10 points.

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

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

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

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

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

