

SENATE No. 2200

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act Text of the amendment (Senate Ways and Means) to the House Bill providing for saltwater fishing permits (House, No. 4309).

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 10 of the General Laws is hereby amended by inserting after
2 section 35LL, inserted by section 9 of chapter 27 of the acts of 2009, the following section:-

3 Section 35NN. (a) There shall be established and set up on the books of the
4 commonwealth a separate fund to be known as the Marine Recreational Fisheries Development
5 Fund. There shall be credited to the fund all recreational saltwater fishing permit fees collected
6 by the director of the division of marine fisheries under section 17C of chapter 130, any
7 appropriations, grants, gifts or other monies authorized by the general court or other parties and
8 specifically designated to be credited to the fund and any income derived from the investment of
9 amounts credited to the fund. All amounts credited to the fund may be expended, subject to
10 appropriation, provided that all unexpended balances remaining in the fund at the end of the
11 fiscal year shall not revert to the General Fund and may be appropriated for expenditure in the
12 subsequent fiscal year.

13 (b) The fund shall be administered by the director in consultation with the marine
14 recreational fisheries development panel established in section 17C of chapter 130. Monies
15 expended from the fund shall be used for the development and administration of the recreational
16 saltwater fishing permit program established in said section 17C of said chapter 130, to support
17 science and conservation programs designed to improve recreational saltwater fishing and other
18 recreational saltwater fishing improvement programs and for the direct and indirect costs of
19 personnel or contractors of the division of marine fisheries associated with such programs;
20 provided, however, that not less than one-third of the permit fees appropriated for expenditure in
21 a fiscal year shall be expended on existing or new facilities and other activities that improve
22 public access to recreational saltwater fishing. The director shall consult with the department of
23 fish and game's office of fishing and boating access on any proposals for public access facilities
24 to be constructed with monies from the fund and such facilities may be constructed in
25 consultation with the office of fishing and boating access. The director shall request the marine
26 recreational fisheries development panel's input on the division's proposed spending plan for the
27 fund in the upcoming fiscal year and provide the panel with a written explanation if the director
28 does not adopt a recommendation of the panel.

29 SECTION 2. Section 1 of chapter 130 of the General Laws, as appearing in the 2008
30 Official Edition, is hereby amended by striking out the definition of "Commissioner" and
31 inserting in place thereof the following definition:-

32 "Commissioner", the commissioner of the department of fish and game.

33 SECTION 3. Said section 1 of said chapter 130, as so appearing, is hereby further
34 amended by striking out the definition of “Department” and inserting in place thereof the
35 following definition:-

36 “Department”, the department of fish and game of the executive office of energy and
37 environmental affairs.

38 SECTION 4. Said section 1 of said chapter 130, as so appearing, is hereby further
39 amended by inserting after the definition of “Quahaug” the following definition:-

40 “Recreational saltwater fishing”, the non-commercial taking or attempted taking of
41 finfish for personal or family use; provided, however, that the finfish are not sold, traded or
42 bartered.

43 SECTION 5. Section 1A of said chapter 130, as so appearing, is hereby amended by
44 striking out, in lines 1 and 2, the words “of fisheries, wildlife and environmental law
45 enforcement”.

46 SECTION 6. Section 5 of said chapter 130, as so appearing, is hereby amended by
47 striking out, in lines 9 and 10, the words “of fisheries, wildlife and environmental law
48 enforcement”.

49 SECTION 7. Section 17A of said chapter 130, as so appearing, is hereby amended by
50 striking out the second paragraph.

51 SECTION 8. Said chapter 130 is hereby further amended by inserting after section 17B
52 the following 2 sections:-

53 Section 17C. (a) The director shall establish a state recreational saltwater fishing permit
54 program to comply with the state exemption requirements of section 401 (g)(2) of the
55 Magnuson-Stevens Fishery Conservation and Management Act, 16 USC 1881 (g)(2) and may
56 promulgate regulations implementing the state program in accordance with sections 17 and 17A.

57 (b) No person shall engage in the recreational activity of finfishing, or take or land
58 finfish for recreational purposes in or from the coastal waters of the commonwealth without first
59 obtaining a saltwater recreational fishing permit from the director. The permit process shall
60 require the applicant to submit, in addition to any other information required by the director, the
61 applicant's name, address, telephone number and date of birth. A permit shall not be required in
62 the following circumstances:

63 (1) a non-resident holding a valid recreational saltwater fishing permit from a coastal
64 state; provided, however, that the director shall determine that: the requirements of such other
65 state permit are substantially the same as the commonwealth's permit requirements; and the
66 privileges granted under law to the resident of the other coastal state are similar to those
67 permitted by the commonwealth;

68 (2) a person under 16 years of age;

69 (3) a disabled person, as defined in section 1 of chapter 19C; or

70 (4) a person fishing as a passenger on a for-hire vessel; provided, however, that the
71 owner of the vessel has a valid permit from the director as provided in subsection (c).

72 (c) The director may issue a recreational saltwater fishing permit to an individual or a
73 business entity that is engaged in for-hire recreational fishing in the coastal waters of the

74 commonwealth, and such permit shall be valid for all persons on board the for-hire vessel. The
75 director may establish categories and related requirements for such permits.

76 (d) The director may establish categories of recreational saltwater fishing permits,
77 including, but not limited to, individual permits, age-related permits and for-hire permits, and
78 may charge a separate annual fee for each category of permits. The amounts of such fees shall be
79 established by the secretary of administration and finance under section 3B of chapter 7;
80 provided, however, that the director or authorized agents may not charge a fee to individuals
81 requesting a permit who, at the time of permit application, are 60 years of age or older or less
82 than 16 years of age. The director shall develop a fee schedule for all classes of permits and
83 submit such schedule to the clerks of the house of representatives and senate not less than 30
84 days before the schedule is to take effect.

85 (e) The director may authorize agents to sell recreational saltwater fishing permits issued
86 under this section and authorize agents who are not employed by the commonwealth to charge
87 and retain a reasonable service fee for such service.

88 (f) The director may designate not more than 2 days in each year as free recreational
89 saltwater fishing days. A person may take saltwater finfish for noncommercial purposes on a
90 free recreational saltwater fishing day without obtaining or possessing a permit or paying a
91 permit fee as prescribed in this section; provided, however, that a person who takes saltwater
92 finfish on a free recreational fishing day must comply with all laws, rules and regulations
93 governing the holders of a recreational fishing permit and all other conditions and limitations
94 regulating the taking of saltwater finfish.

95 (g) There shall be established within the division a marine recreational fisheries
96 development panel. The panel shall advise the director on the development and administration
97 of recreational saltwater fishing improvement programs, including, but not limited to, the
98 improvement of public access to marine recreational fisheries. The panel shall consist of 2
99 members of the marine fisheries advisory commission and 3 members of the public at large, all
100 of whom shall have specific expertise and background in the commonwealth's marine
101 recreational fisheries. The panel members shall be appointed by the commissioner for terms not
102 to exceed 3 years. Any member shall be eligible for reappointment. The panel shall meet at
103 least twice annually and shall also meet at the request of the director or the commissioner. Three
104 of the members shall constitute a quorum and the affirmative vote of a majority of members
105 present at a duly called meeting where a quorum is present shall be necessary for any action to be
106 taken by the panel.

107 Section 17D. Whoever violates section 17C, or any rule or regulation made under
108 authority thereof, shall be punished by a fine per offense as promulgated by the director. All
109 funds received by the commonwealth under this section shall be deposited in the Marine
110 Recreational Fisheries Development Fund established by section 35NN of chapter 10.