



S.B. 77

127th General Assembly
(As Introduced)

Sens. Grendell, Spada, Mumper

BILL SUMMARY

- Increases the annual fees for licenses for commercial fishing devices.
- Revokes by operation of law all commercial fishing licenses and all permits to handle fish at wholesale issued under the Hunting and Fishing Law to a person when the person is convicted of a felony related to commercial fishing activities for a violation of state or federal law, and prohibits the issuance of any new commercial fishing licenses or permits to handle fish at wholesale to such a person.
- Replaces certain existing provisions related to suspension and revocation of a commercial fishing license or a permit to handle fish at wholesale with new suspension and revocation requirements for such licenses and permits, and consolidates them in one statute.
- Prohibits the transfer of a commercial fishing license issued under Ohio law.
- Prohibits a commercial fishing licensee, on and after March 1, 2008, from using or engaging in fishing with commercial gear unless the licensee uses vessel and catch monitoring devices in accordance with requirements and procedures established by the Chief of the Division of Wildlife, requires the Chief to establish by rule requirements and procedures for such devices, and requires a commercial fishing licensee to pay the cost of purchasing, installing, and maintaining the devices.
- Revises certain requirements that guide the Chief and the Wildlife Council in determining the apportionment of the maximum allowable annual taking of fish between the sport and commercial interests under the quota management system, and revises certain requirements that the

Chief and the Council must consider in determining the distribution of the apportionment of fish within the commercial industry under the system.

CONTENT AND OPERATION

Commercial fishing device license fees

Current law establishes annual fees for the issuance of commercial fishing device licenses. The bill increases the fees as follows (sec. 1533.35(A)):

Type of commercial fishing device	License fee under current law	License fee under the bill
Trap and fyke nets, for the first 20 nets or any portion	\$800	\$2,400
Trap and fyke nets, for each additional group of ten or any portion	\$400	\$1,200
Seine, other than an inland fishing district seine, equal to or less than 150 rods in length	\$400	\$1,200
Seine, other than an inland fishing district seine, more than 150 rods in length	\$600	\$1,800
Inland fishing district seine	\$100	\$300
Carp apron	\$100	\$300
Trotline with 70 hooks or less attached	\$20	\$60
Trotline, or trotlines, with more than 70 hooks attached	\$100	\$300
Dip net	\$100	\$300

Forfeiture of commercial fishing licenses and permits to handle fish at wholesale

The bill revokes by operation of law all commercial fishing licenses issued under the Hunting and Fishing Law and all permits to handle commercial fish or



other fish at wholesale issued under that Law to a person when the person is convicted of a felony related to commercial fishing activities for a violation of state or federal law. In addition, the bill prohibits the issuance of any new commercial fishing licenses or permits to handle commercial fish or other fish at wholesale to such a person. (Sec. 1533.641(A).)

Suspension and revocation of commercial fishing licenses and permits to handle fish at wholesale

Current law

Quota management system. Current law authorizes the Chief of the Division of Wildlife with the approval of the Wildlife Council to establish by Division rule a quota management system that consists of determining the species and number or pounds of the maximum allowable annual taking of the Lake Erie fishery resources or parts of those resources in order to prevent over exploitation of any species and assure the conservation and wise use of all species and the determination of the distribution of the maximum allowable annual taking between and within sport and commercial interests. It requires compliance with any quota set, other provisions of the statute governing the quota management system, and applicable Division rules.

Current law states that the license of any person who is convicted of two violations of the law pertaining to the quota management system within a 12-month period is suspended upon the second such conviction for a period of 60 fishing season days. The license of any person who is convicted of three or more violations of that law within a 12-month period is suspended upon the third or subsequent such conviction for a period of 18 fishing season months. Any person whose license has been suspended or revoked pursuant to any provision of the Hunting and Fishing Law or the Division of Wildlife Law is not eligible to apply for or receive a new license during the period of suspension or revocation. (Sec. 1533.341.)

Commercial fishing reports for each day's catch. Current law requires commercial fishing licensees to keep accurate reports for each day's catch on forms provided by the Chief of the Division of Wildlife and establishes procedures and requirements for purposes of reporting each day's catch. It also requires compliance with any statutory report procedure, other provisions of the statute governing reporting, and applicable Division rules.

Current law states that the license of any person who is convicted of two violations of the law pertaining to reports for each day's catch within a 12-month period is suspended upon the second such conviction for a period of 60 fishing season days. The license of any person who is convicted of three or more

violations of that law within a 12-month period is suspended upon the third or subsequent such conviction for a period of 18 fishing season months. (Sec. 1533.42.)

Use of seines and nets. Current law establishes requirements concerning the dimensions and specifications for seines and the locations where seines and nets may be used. It requires compliance with those requirements and with applicable Division rules.

Current law states that the license of any person who is convicted of two violations of the law pertaining to seines and nets within a 12-month period is suspended upon the second such conviction for a period of five fishing days. The license of any person who is convicted of three or more violations of that law within a 12-month period is suspended upon the third or subsequent such conviction for a period of 20 fishing season days. (Sec. 1533.62.)

Legal length and weight of certain fish. Current law establishes permissible lengths and weights of specified types of fish that may be taken, bought, and sold, other requirements concerning the taking, buying, and selling of specified types of fish, and other miscellaneous requirements related to specified types of fish. It requires compliance with those requirements and applicable Division rules.

Current law states that the license of any person who is convicted of two violations of the statute related to the legal length and weight of certain types of fish, other than those relating to 10% by weight of undersized fish, that occurred within a 12-month period is suspended upon the second such conviction for a period of 60 fishing season days. The license of any person who is convicted of three or more violations of that statute, other than those relating to 10% by weight of undersized fish, that occurred within a 12-month period is suspended upon the third or subsequent conviction for a period of 18 fishing season months.

In addition, the license or permit of any person who is convicted of two violations of that statute relating to walleye or sauger is suspended upon the second such conviction for a period of 20 days. The license or permit of any person who is convicted of three violations of that statute relating to walleye or sauger is suspended upon the third conviction for a period of 60 days.

Any person who is convicted of four violations of that statute relating to walleye or sauger imported from outside Ohio that occurred within a 36-month period is prohibited upon the fourth conviction from transporting, buying, selling, or dealing in walleye and sauger for a period of 60 months. The license or permit of any person who is convicted of four violations of that statute relating to walleye or sauger, other than walleye or sauger imported from outside Ohio, is revoked

upon the fourth conviction and the person is permanently barred from obtaining another license or permit of the type revoked.

Furthermore, current law states that the license of any person who is convicted of three or more violations of that statute relating to 10% by weight of undersized fish that occurred within a 12-month period is suspended upon the third or subsequent conviction for a period of 20 fishing season days.

For purposes of determining any license or permit suspension or revocation required under that statute, multiple convictions resulting from violations of that statute that occurred at the same time, on the same day, and at the same location are deemed to be a single conviction of one violation (sec. 1533.63).

Permit to handle commercial fish or other fish at wholesale. Current law establishes fees and requirements concerning permits to handle commercial fish or other fish that may be bought or sold at wholesale. It requires compliance with any statutory provision related to permits to handle fish at wholesale and with applicable Division rules. (Sec. 1533.631.)

Current law states that the permit of any person who is convicted of two violations of the statute pertaining to permits to handle fish at wholesale within a 12-month period is suspended upon the second such conviction for a period of five fishing season days. The permit of any person who is convicted of three or more violations of that statute within a 12-month period is suspended upon the third or subsequent such conviction for a period of 20 fishing season days. (Sec. 1533.631.)

Property rights in fish. Current law establishes that fish lawfully confined in a net or by another authorized device are the property of the owner or person operating the net or other device and cannot be taken by another person when the fish are so confined. It requires compliance with that requirement and applicable Division rules. (Sec. 1533.64.)

Current law states that the license of any person who is convicted of two violations of the statute pertaining to lawfully confined fish within a 12-month period is suspended upon the second such conviction for a period of 60 fishing season days. The license of any person who is convicted of three or more violations of that statute within a 12-month period is suspended upon the third or subsequent such conviction for a period of 18 fishing season months. (Sec. 1533.64.)

Other penalties. All of the statutes discussed above state that the penalties established by them are in addition to other penalties provided in the Revised Code (secs. 1533.341, 1533.42, 1533.62, 1533.63, 1533.631, and 1533.64).

The bill

The bill replaces all of the provisions discussed above related to suspension and revocation of commercial fishing licenses and permits to handle fish at wholesale with new suspension and revocation requirements and consolidates them in one statute. Under the bill, if a commercial fishing licensee, a licensee's authorized representative, a person that has been issued a permit to handle fish at wholesale, or a permittee's authorized representative violates any of the statutes governing commercial fishing that are discussed above, or any Division rule pertaining to those statutes, the licensee's license or the permittee's permit, as applicable, must be suspended for a period of 30 fishing season days. If a violator commits a second violation within ten years after committing the first violation, the applicable licensee's license or permittee's permit must be suspended for a period of 60 fishing season days. If a violator commits a third violation within ten years after committing the first violation, the applicable licensee's license or permittee's permit must be revoked. (Sec. 1533.641(B).)

The bill also consolidates and relocates to the new statute language that is currently found in all of the above statutes and that provides that during any period of suspension of a license or permit under the bill as discussed above, no person is permitted to use or engage in fishing with commercial gear, or in handling commercial fish or other fish at wholesale with equipment, owned, used, or controlled at the time of conviction by the licensee or the licensee's authorized representative or by the permittee or the permittee's authorized representative, as applicable (sec. 1533.641(C)). Similarly, the bill relocates to the new statute language under which a person whose license has been suspended or revoked by operation of law pursuant to any provision of the Hunting and Fishing Law or the Division of Wildlife Law is not eligible to apply for or receive a new license during the period of the suspension or revocation (sec. 1533.641(D)).

In addition, the bill moves to the new statute language currently in the statute governing the legal length and weight of specified types of fish (see above) that states that for purposes of determining a license or permit suspension or revocation for a violation of that existing statute, multiple convictions resulting from violations of that statute that occurred at the same time, on the same day, and at the same location are deemed to be a single conviction of one violation (sec. 1533.641(E)).

Finally, the bill applies all of the above provisions that are in the new consolidated statute to anyone who violates the bill's vessel and catch monitoring devices requirements (see "*Vessel and catch monitoring devices*," below) and the existing statute establishing commercial fishing seasons (secs. 1533.343, 1533.41, not in the bill, and 1533.641(B), (C), and (D)).

License and royalty fees

As discussed above, current law establishes license fees for commercial fishing devices. It also establishes royalty fees for catfish, white bass, and yellow perch when taken commercially. Current law prohibits anyone from failing to comply with any of those provisions or an applicable Division rule.

Current law states that in addition to other penalties provided in the Revised Code, the license of any person who is convicted of one or more such violations must be suspended for a period of 18 fishing season months. During any period of suspension, no person can use or engage in fishing with commercial gear owned, used, or controlled at the time of conviction by the licensee. The bill repeals those provisions. (Sec. 1533.35.)

Transfer of commercial fishing license

Existing law states that notwithstanding any other provision in the Revised Code and except as otherwise provided by Division rule, a licensee holding a commercial fishing license issued under the Hunting and Fishing Law may transfer that license to a person holding a commercial fishing license issued under Ohio law or to a person meeting the qualifications established in current law governing applications for commercial fishing licenses. The qualifications include all of the following: (1) 90 days' Ohio residency immediately preceding application, (2) two years' commercial fishing gear experience or holder of an Ohio commercial license of another gear, and (3) posting of a \$1,000 performance bond or cash deposit in a like amount. Furthermore, a transfer is subject to specified conditions established in current law. The bill instead prohibits the transfer of a commercial fishing license issued under Ohio law. (Sec. 1533.36(B).)

Vessel and catch monitoring devices

The bill prohibits a commercial fishing licensee, on and after March 1, 2008, from using or engaging in fishing with commercial gear unless the licensee uses vessel and catch monitoring devices in accordance with requirements and procedures established by the Chief of the Division of Wildlife. The Chief must establish requirements and procedures concerning vessel and catch monitoring devices by Division rule. A licensee must pay the cost of purchasing, installing, and maintaining the devices. (Sec. 1533.343.)

Determination of apportionment and distribution under the quota management system

Current law authorizes the Chief of the Division of Wildlife with the approval of the Wildlife Council to establish a quota management system to manage the Lake Erie fishery resources. In determining and establishing the apportionment of the maximum allowable annual taking of a species between the sport and commercial interests under the system, the Chief and the Council must be guided by the proportional sport and commercial taking of the species during the immediately preceding five years and other pertinent scientific, economic, and social data. The bill instead requires the Chief and the Council to be guided by the proportional sport and commercial taking of the species during the immediately preceding five years or other pertinent scientific, economic, and social data rather than both as in current law.

Similarly, current law requires the Chief and the Council, in determining the distribution of the apportionment within the commercial industry under the system, also to consider the proportional commercial taking of the species within the commercial industry during the immediately preceding five years and other pertinent scientific, economic, and social data. The bill instead requires the Chief and the Council to consider the proportional commercial taking of the species within the commercial industry during the immediately preceding five years or other pertinent scientific, economic, and social data rather than both as in current law. (Sec. 1533.341.)

HISTORY

ACTION	DATE
Introduced	02-22-07

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