



CHAPTER 4.

FISHING ACCESS AND LICENSING

ARRANGEMENT OF SECTIONS

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An Act to govern the issuance of fishing licensing, access agreements and matters related thereto.

Commencement: 13 October 1997
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PART I- FOREIGN AND DOMESTIC BASED FISHING AND RELATED ACTIVITIES

§401. Short Title.

This Chapter may be cited as the Fishing Access and Licensing Act’[Short title supplied by Commissioner during codification.]

§402. General Requirements.

(1) No person shall use a vessel for entering or remaining within the Fishery Waters in violation of any provision of this Title, any other law of the Republic of the Marshall Islands or an

applicable access agreement unless the vessel is entering for innocent passage or force majeure in accordance with international law.

(2) Each foreign and domestic based fishing vessel in any place in the fisheries waters shall be operated in such a way that the activities of local and traditional fishermen and fishing vessels are not disrupted or in any other way adversely affected.

(3) Where any vessel is used in the contravention of Subsection (1), the operator of that vessel commits an offence and upon conviction shall be fined not more than \$1,000,000.

(4) Where any person contravenes Subsection (2), the operator of that vessel commits an offence, and shall be fined not more than \$500,000. [P.L. 1997-60, §56.]

§403. Access agreement required.

(1) No foreign or domestic-based fishing vessel shall be issued a license to fish in the Fishery Waters unless an applicable access agreement is in force, duly entered into by the Authority in accordance with this Title. [P.L. 1997-60, §57.]

§404. Fees for licenses for foreign fishing vessels and domestic based fishing vessels.

(1) Fees and other forms of compensation for the right to engage in fishing within the Fishery Waters by foreign and domestic based fishing vessels shall be established in access agreements entered into pursuant to Section 403 of this Title.

(2) The Authority may accept all or a portion of the fee paid under an access agreement pending rebate under such conditions as the Authority may determine in writing or as may be prescribed by regulation, and when the Authority is satisfied that all conditions have been met.

(3) That portion of a fee that is subject to rebate shall be held in a separate trust account maintained by the Authority until the Authority determines whether the conditions have been met for rebate. [P.L. 1997-60, §58.]

§405. Access Agreement; term of validity.

(1) The term of validity of an access agreement shall not exceed ten years, and the length of the term shall be established taking into account the:

(a) likely compliance with the access agreement and this Title;

(b) potential economic benefits for the Republic of the Marshall Islands.

and such term may be renewable subject to the approval of the Authority based on the performance of the other party based on the above criteria and such other requirements as the Authority may determine.

(2) Any access agreement whose validity exceeds one year shall include provision for annual review by the Authority.

(3) Any access agreement may be terminated by the Authority, according to its terms or upon substantial non-compliance by the other party with any requirement of the access agreement or this Title.

(4) Fishing under any access agreement may be suspended by the Authority upon a determination by the Authority, based on the best scientific information in the region, that continued fishing at current levels would seriously threaten the fish stocks.

(5) If fishing is suspended under Subsection (4), the Authority shall make every effort to accommodate the long-term interests of the party to the access agreement and shall rebate

proportionately any fees paid for fishing during such suspension. [P.L. 1997-60, §59.]

§406. Access agreement; minimum terms.

All access agreements shall have the following minimum terms:

(1) The sovereign rights and exclusive fishery management authority of the Republic of the Marshall Islands within the Fishery Waters shall be recognized.

(2) The operator and each member of the crew shall comply with the applicable access agreement, this Title and all other applicable laws and regulations;

(3) The operator shall:

(a) provide an authorized observer, while on board the vessel, at no expense, with officer level accommodation, food and medical facilities;

(b) meet the following costs of the authorized observer:

(i) full travel costs to and from the vessel;

(ii) salary; and

(iii) full insurance coverage;

(c) display any license or license number issued for any such vessel pursuant to this Title or any other documentation as required by the Authority to be displayed under any access agreement in the wheelhouse of such vessel;

(d) ensure that such position-fixing and identification equipment as may be required by the Authority shall be installed and maintained in working order on each vessel;

(e) ensure that the vessel is marked and identified in accordance with the Food and Agriculture Organization of the United Nations (FAO) approved Standard Specifications for the Marking and Identification of Fishing Vessels;

(f) ensure the continuous monitoring of the international distress and calling frequency 2182 kHz (HF), or the international safety and calling frequency 156.8 MHz (channel 16, VHF-FM) to facilitate communication with the fisheries management, surveillance and enforcement authorities;

(g) ensure that a recent and up to date copy of the International Code of Signals (INTERCO) is on board and accessible at all times;

(h) ensure that the vessel is seaworthy and contains adequate life safety equipment and survival gear for each passenger and member of the crew;

(i) ensure that, promptly upon direction by the Authority, each vessel will have installed, maintained and fully operational at all times on board a vessel a transponder in accordance with Section 511 of this Title, and shall be responsible for all operational and maintenance costs of the transponder and cooperate fully with the Authority in their utilization;

(4) The party to the access agreement shall:

(a) for the duration of the access agreement, appoint and maintain an agent resident in the Republic of the Marshall Islands or establish and maintain a company registered in accordance with the laws of the Republic of the Marshall Islands, authorized to receive and respond to any legal process issued in the Republic of the Marshall Islands with respect to the owner or operator of the vessel, and shall notify the Republic of the Marshall Islands of the name and address of such agent, and any communication, information, document, direction, request or response to or from that agent or company shall be deemed to have been

sent to, or received from such owner or operator;

(b) not exceed any allocation which may be established in any given licensing period in accordance with this Title;

(c) ensure compliance by each fishing vessel, its operator and crew members with the access agreement, all laws of the Republic of the Marshall Islands and the terms of the license;

(d) ensure compliance by each fishing vessel, its operator and crew members with sub-regional and regional conservation and management measures for highly migratory fish stocks;

(e) apply and enforce the relevant terms of any fisheries management agreement to which the Republic of Marshall Islands is party.

(5) Where the party to the access agreement is an association or other entity or person representing or otherwise acting on behalf of members or other persons, such association or entity or person shall be liable for the undischarged liabilities of its members or other persons arising out of:

(a) operations in the Fishery Waters under the access agreement; and

(b) the access agreement, including tees. [P.L. 1997-60, §60.]

§407. Fisheries management agreements.

(1) Fisheries management agreements may, at the Authority's discretion, include the following provisions, inter alia:

(a) authorization of a person, body or organization to perform functions required by a multilateral access agreement, including but not limited to the allocation, issuance and denial of fishing licenses valid in the region or part thereof, including the exclusive economic zone;

(b) an observer program;

(c) fisheries monitoring, control and surveillance;

(d) any other matter relating to fisheries management. [P.L. 1997-60, §61.]

§408. Implementation of multilateral access agreements, fisheries management agreements.

(1) For the purpose of implementing a multilateral access agreement or fisheries management agreement the Authority may in writing:

(a) exempt any fishing vessel or class of fishing vessels holding a valid fishing license issued pursuant to a multilateral access agreement or fisheries management agreement from any requirement of this Title which is inconsistent with the terms of such agreement.

(b) implement the establishment of closed areas, closed seasons and such other management measures as may be agreed pursuant to a fisheries management agreement;

(c) authorize officers or observers designated pursuant to a fisheries management agreement to:

(i) enforce the provisions of this Title and any fisheries access agreement or fisheries management agreement on behalf of the Republic of the Marshall Islands; and

- (ii) perform such duties and responsibilities as may be required by such agreement;
 - (d) prescribe or otherwise require the conditions to be observed by operators of fishing vessels exempted under paragraph (a) of this Subsection;
 - (e) prescribe or otherwise require the conditions to be observed by citizens and operators of fishing vessels registered in the Republic of the Marshall Islands for fishing outside the exclusive economic zone, in accordance with any access agreement or fisheries management agreement to which the Republic of the Marshall Islands may be party;
- (3) Standing in the High Court of the Republic of the Marshall Islands shall be afforded to any authorized officer or authorized observer designated under a fisheries management agreement entered into pursuant to Subsection (1)(b) or (c) of this Section to bring action against any person or fishing vessel for any act or offense that is actionable under the law of the Republic of the Marshall Islands is a violation of an access agreement or fisheries management agreement pursuant to which the officer or observer was authorized which has occurred in the Fishery Waters or the high seas, notwithstanding the nationality of the authorized officer or authorized observer. [P.L. 1997-60 §62.]

§409. Transshipment.

- (1) The operator of a fishing vessel shall:
 - (a) not transship at sea under any circumstances;
 - (b) provide 72 hours notice to the Authority of a request to transship any or all of the fish on board and shall provide the name of the vessel, its international radio call sign, its position, the catch on board by species, the time and port where such transshipment is requested to occur and an undertaking to pay all fees required under the laws of the Republic of the Marshall Islands;
 - (c) only transship at the time and port authorized by the Director for transshipment; and
 - (d) submit full reports on transshipping on such forms as may be required by the Authority or prescribed by regulation.
- (2) During transshipment in the Fishery Waters the foreign party and operator of each vessel shall comply with all applicable laws relating to protection of the environment, including without limitation, sewage holding tank requirements. [P L 1997-60, §63.]

[Section numbers 410-420 were “Reserved” in the last revision. They have now been assigned to the succeeding provisions (sections) in Part II below .

PART II- LICENSES AND REGISTRATION

§410. Licenses may be required.

- (1) The Authority may require by decision of the Board or by regulation any person or class of persons or vessel, fishing vessel or class of fishing vessels to hold a license issued by the Authority for activities described in Section 411, in addition to the requirements in Section 412, but shall exempt from such requirement:
 - (a) any fishing vessel which holds a valid and applicable license issued pursuant to a multilateral access agreement to which the Republic of the Marshall Islands is party

and which designates a licensing authority outside the Republic of the Marshall Islands;

(b) any citizen engaging in subsistence fishing.

(2) The Director shall by written notice inform a Local Government Council if a regulation promulgated pursuant to Subsection (1) applies to its waters.

(3) Any person who uses a vessel for which a license is required by the Authority under Subsection (1) without a valid and applicable license or in contravention of its terms or conditions, commits an offense and upon conviction shall be fined not more than \$100,000 or be imprisoned up to six months, or both. [P.L. 1997-60, §64.]

§411. Activities subject to licenses, authorization.

(1) The Director may issue licenses, in accordance with this Title, for the following activities in or associated with the Fishery Waters:

(a) fishing;

(b) transshipment, and other related activities;

(c) mariculture or aquaculture;

(d) the marketing and/or export of any fish or fish product taken from the Fishery Waters;

(e) fish processing;

(f) sport fishing;

(g) commercial pilot fishing;

(h) marine scientific research;

(i) exploration and exploitation of nonliving marine resources.

(2) The Director may issue licenses for fishing outside the Fishery Waters in respect of fishing vessels registered in the Republic of the Marshall Islands, in accordance with this Title, international law and any international convention or other instrument having legal force to which the Republic of the Marshall Islands is party. [P.L. 1997-60, §65.]

§412. Fishing licenses required for domestic-based and foreign fishing vessels.

(1) No person may use a domestic-based or foreign fishing vessel for fishing in the Fishery Waters without a valid and applicable license issued in accordance with this Title.

(2) The operator or any fishing vessel which is used in the contravention of Subsection (1) commits an offense and upon conviction shall be liable to a fine not exceeding \$1,000,000. [P.L. 1997-60, §66.]

§413. License approval and issuance.

(1) The Authority shall be responsible for approving guidelines and/or promulgating regulations governing the issuance of licenses or authorizations pursuant to this Title.

(2) The Director or his designee shall be responsible for issuing all licenses or authorizations in accordance with this Title and guidelines issued under Subsection (1), except for licenses which may be required by a Local Government Council unless so requested in writing by such Council.

(3) The Director or his designee shall review each application submitted pursuant to this Title, and may, in his discretion, solicit views from appropriate persons in the Local Government Councils and other stakeholders in the fisheries sector, and hold public hearings where necessary.

(4) Applications for licenses shall be in such form as the Authority may require or as may be prescribed, and shall specify, inter alia:

(a) the name, call sign, country of registration number, regional register number, name and address of the operator, name of the vessel master, bank reference number;

(b) the tonnage, capacity, gear type, processing equipment and such other pertinent information with respect to the characteristics of each vessel as the Authority may require;

(c) if applicable, the access agreement under which such license is sought; and such additional information as the Authority may require or as may be prescribed to implement and enforce the provisions of this Title.

(5) Licenses may be issued after application is made in accordance with this Title, and the required fee is paid.

(6) The Director may attach such conditions to a license as he thinks fit, and shall attach such terms and conditions as may be prescribed.

(7) The Authority may, by decision or regulation, require, inter alia:

(a) a form and procedures for application for a license;

(b) any conditions which may or shall be attached to a license;

(c) criteria for renewal, refusal, suspension or cancellation of a license;

(d) fees, royalties and other forms of payment for licenses;

(e) period of validity of licenses;

(f) requirements for the transfer of licenses;

(g) offenses, fines and penalties. [P.L. 1997-60, §67.]

§414. License Denial.

(1) The Director shall notify the applicant of the decision to issue or deny a license within a reasonable time of the date of receipt of the application.

(2) The Director may approve the application on such terms and conditions and with such restrictions as he or she deems appropriate.

(3) A license, or its renewal, may be denied where:

(a) the application is not in accordance with the requirements of this Title;

(b) the Director is satisfied that information required to be given or reported under this title is false, incomplete or misleading;

(c) the owner or charterer is the subject of proceedings under the bankruptcy laws of any jurisdiction or on reasonable grounds appears unable to meet any financial obligations which could arise from fishing activities and reasonable financial assurances determined by the Authority have not been provided;

(d) the fishing vessel required safety standards;

(e) the fishing vessel required markings;

(f) an operator of the vessel has contravened, or the vessel has been used for contravention of an access agreement, or has committed an offense against the laws of the Republic of the Marshall Islands,

(g) the Director determines that the issuance of a license would not be in the best interests of the Republic of the Marshall Islands.

(4) A license shall be denied:

(a) where the application is made in respect of a foreign fishing vessel, and such

vessel does not have good standing on the Regional Register of Foreign Fishing Vessels maintained by the South Pacific Forum Fisheries Agency;

(b) where there has been a failure to satisfy a judgment or other final determination for breach of this Title or an access or fisheries management agreement entered into pursuant to this Title by the operator of the vessel in respect of which application for a license has been made, until such time as the judgment or other determination is satisfied, and provided that a subsequent change in ownership of a vessel shall not affect the application of this provision;

(c) where the Director determines it would be inconsistent with management measures implemented in accordance with this Title;

(d) where the required fees, royalties or other forms of compensation have not been paid in accordance with this Title and an applicable access agreement;

(e) where the Director determines that insurance requirements of this Title and/or any applicable access agreement are not fulfilled;

(5) No license shall be issued:

(a) authorizing fishing by foreign or domestic based vessels on, over or within one nautical mile of the edge of a coral reef that is wholly submerged at mean high tide within the Fishery Waters;

(b) authorizing fishing using a driftnet or other substantially similar method of catching fish;

(c) authorizing driftnet fishing activities.

(6) If the Director denies an application submitted by an applicant, he shall notify such applicant of the denial and the reasons therefor. The applicant may then submit a revised application taking into consideration the reasons for disapproval. The decision of the Director will then be final and binding. [P.L. 199 7-60, §68.]

§415. Suspension, revocation or imposition of conditions or restrictions on a license.

If any fishing vessel for which a license has been issued pursuant to this Title has been used in the commission of any act prohibited by this Title or other applicable law, an applicable access agreement, or any license issued in accordance with this Title, or if any fee or civil penalty, criminal fine or other determination imposed under this Title has not been paid within 30 days of the due date, the Director shall:

(a) revoke such license with or without prejudice to the right of any party involved to be issued a license for such vessel in any subsequent licensing period;

(b) suspend such license for a period of time it may deem appropriate; or

(c) impose additional conditions or restrictions on any such license. [P.L. 199 7-60,

§69.]

§416. Licenses - Period of Validity.

(1) Subject to Subsection (2) and unless otherwise prescribed in accordance with this Title, every license issued or renewed under this Title shall, unless previously terminated, revoked or suspended in accordance with this Title, be valid for a period of one year, or such lesser period as may be specified, and shall not extend beyond the period of validity of an applicable charter agreement or access agreement.

(2) A license issued or renewed under this Title shall only be valid for the species of fish,

the type of fishing gear or method of fishing, or such other activity in accordance with this Title, as may be specified in the license.

(3) Where a fishing vessel which is issued a license as a local fishing vessel or a domestic based fishing vessel becomes a foreign fishing vessel, the license shall automatically terminate.

(4) A license issued under this Title may be transferred in accordance with such conditions as may be prescribed by regulation or otherwise required by the Authority. [P.L. 1997-60, §70.]

§417. Licensing Period.

(1) The Authority shall establish an annual licensing period.

(2) The Authority shall determine the procedures for issuing and renewing licenses during such licensing period. [P.L. 1997-60, §71.]

§418. Fees and charges.

(1) There shall be payable in respect of every license issued under this Title fees, royalties or other forms of compensation, and a registration charge may also be payable upon application.

(2) The Authority shall determine the fees, royalties or other forms of compensation for licenses issued pursuant to this Title, and other charges it may require in relation to license administration.

(3) In determining the level of fees, royalties or other forms of compensation for licenses for fishing and related activities, the Board shall take the following, inter alia, into account:

- (a) the value of the fish species being sought;
- (b) the quantity of the species sought;
- (c) the efficiency of the gear;
- (d) alternative uses of the fishers resources;
- (e) the cost of fishery management and development.
- (f) the cost of observers;
- (g) the development of the local fishery sector; and
- (h) the cost of fisheries research, administration and enforcement.

(4) License fees may be classified, inter alia, according to the value of species sought, and the length overall, gross tonnage, type of gear or other method related to the harvesting potential of the vessel or fishing gear.

(5) In determining the fees for marine scientific research, the Authority shall take into account a research plan submitted by the applicant, and the long term value of such research to the management and development of any fishery in the exclusive economic zone.

(6) No license shall be issued pursuant to this Title unless the requisite fees, royalties, charges and other forms of compensation have been paid in accordance with this Title and an applicable access agreement. [P.L. 1997-60, §72.]

§419. Observation of laws.

Any license issued or authorization given under this Title shall not exempt a person from any legitimate requirement of a Local Government Council, or from any other law in force in the Republic of the Marshall Islands. [P.L. 1997-60, §73.]

§420. Reporting requirements.

(1) The operator of each foreign and domestic based fishing vessel issued a permit or which is permitted to fish pursuant to an access agreement, and such other fishing vessels as the Authority may require, shall make such reports which may be required by the Authority, which shall include:

(a) at all times while the vessel is in the Fishery Waters, causing to be maintained in the English language in ink a fishing log in a form supplied or approved by the Authority, and shall enter the following information relating to the activities of the vessel on a daily basis:

(i) the gear type used;

(ii) the noon position of the vessel and, where applicable, the set position and time or the number of hooks and sea surface temperature;

(iii) the species of fish taken and the size and quantity of each species by weight or number as may be specified in the form;

(iv) the species of fish returned from the vessel to the sea, the reason for discard, the quantity of each species by weight or number as may be specified in the form;

(v) such other information as the Authority may require or prescribe by regulation, or as may be required by an applicable access agreement or fisheries management agreement;

(b) reporting information in a format approved or supplied by the Authority, by telex or facsimile relating to the position of, and catch on board, the vessel at the following times:

(i) at least 24 hours prior to the estimated time of entry into and departure from the exclusive economic zone;

(ii) each Wednesday while in the exclusive economic zone;

(iii) at least 24 hours prior to the estimated time of entry into or departure from port; and

(iv) upon entry and departure from a closed area;

(c) ensuring that any information or data which may be required to be transmitted by a transponder is transmitted continuously, accurately and effectively to the designated receiver;

(d) providing such daily information relating to high seas fishing during the course of a fishing trip involving fishing in the Fishery Waters as and in the form the Authority may require pursuant to any fisheries management agreement and to give effect to the duty in international law to cooperate in the conservation and management of highly migratory fish stocks;

(e) certifying that information provided pursuant to subparagraphs (a) - (c) is true, complete and accurate.

(2) The operator referred to in Subsection (1) shall provide reports required under subparagraphs (a) and (d) and post the requisite forms to the Authority by registered airmail within fourteen days following the date of completion of the off-loading operation.

(3) The Authority may require, by written notice or regulation, such other reports in respect of any vessel as may be necessary:

(a) for the conservation and management of marine resources, including for related activities;

(b) to implement or enforce the provisions of this Title and any access agreement or

fisheries management agreement.

(4) Any person who contravenes Subsection (1) or (2) commits an offense and upon conviction shall be fined not more than \$10,000 or be imprisoned up to six months, or both. [P.L. 1997-60, §74.]

§421. Marine scientific research.

(1) No person shall, without a license issued by the Director:

(a) undertake marine scientific research in the Fishery Waters;

(b) rake samples from the Fishery Waters for the purposes of marine scientific research.

(2) A license for purposes described in Subsection (1) shall only be issued to a person or persons engaged in bona fide scientific research as demonstrated by their employment by, affiliation with or sponsorship by a duly constituted governmental agency, an accredited educational organization or other recognized scientific research institution.

(3) Any person or entity undertaking marine scientific research in the Fishery Waters shall:

(a) submit such information to the Director or his designee as may be requested or as may be prescribed by regulation, including a copy of all records and reports of activities of the vessel in the Fishery Waters, and a final report including full conclusions upon completion of the research:

(b) be accompanied by and train such observer, fisheries officer or other person or persons the Director may assign during the research at no expense to the Government.

(4) The harvest of any marine life from the Fishery Waters not required for further research purposes shall be donated to the Authority for distribution to government institutions or charitable organizations or otherwise disposed of pursuant to the terms of the license.

(5) Any person who contravenes Subsections (1), (3) or (4) commits an offense and upon conviction shall be fined not more than \$250,000. [P.L. 1997-60, §75.]

§422. Fishing plans.

(1) The Authority may require fishing plans to be attached to the application for a license, and shall require plans in respect of applications for mariculture, exploratory fishing and marine scientific research licenses, including but not limited to the information required in Subsections (2), (3) and (4).

(2) The plan for mariculture or aquaculture shall include the following:

(a) a description of the site by reference to area, fish species and cultivation methods;

(b) the objectives to be achieved in the plan,

(c) the means by which these objectives are to be achieved by outlining the strategy to be followed:

(d) performance criteria or other means of evaluating the effectiveness of the plan:

(e) an Environmental Impact Assessment of the proposed development;

(f) evidence of consultation with all those who may be directly affected including the Local Government Council exercising jurisdiction over the area of the designated fishery;

(g) any applicable evidence of entitlement to the intended site, including ownership, a lease or the agreement of any resource owner, for the area to be used for mariculture;

(h) any applicable evidence of a license or agreement of any Local Government Council for mariculture or aquaculture within the area of its fishery.

- (3) The plan for commercial pilot fishing shall include the following:
- (a) a description of the fishery by reference to area, fish species, fishing methods and the present state of exploitation;
 - (b) the objectives to be achieved in the commercial pilot fishing or research plan;
 - (c) the means by which these objectives are to be achieved by outlining the strategy to be followed;
 - (d) performance criteria or other means of evaluating the effectiveness of the plan;
 - (e) the limitations, if any, to be applied to fishing operations;
 - (f) the schedule for regularly reporting its findings to the Director.
- (4) The plan for marine scientific research shall include the following:
- (a) a description of the marine scientific research to be undertaken, qualifications of each person involved and a description of the equipment to be used;
 - (b) the objectives to be achieved;
 - (c) performance criteria or other means of evaluating the effectiveness of the research plan;
 - (d) any effect the marine scientific research may have on the waters of a Local Government Council and resources therein, including any resources which may be taken during the course of the research;
 - (e) the limitations, if any, to be applied to the scope of the research;
 - (f) the schedule for regularly reporting its findings to the Director. [P.L. 1997-60, §76.]

§423. Mariculture and aquaculture.

- (1) Mariculture and aquaculture operations shall be carried out in accordance with such conditions as may be required by the Director or otherwise prescribed, including those relating to:
- (a) the quality, control and use of water;
 - (b) land or marine use and siting of aquaculture or mariculture facilities;
 - (c) fish species to cultivate;
 - (d) construction of ponds;
 - (e) pollution and related matters;
 - (f) importation of live fish;
 - (g) protection against poaching;
 - (h) dangerous chemicals. [P.L. 1997-60, §77.]

§424. Registration of fishers and fishing vessels.

- (1) The Authority may, by regulation, require that any fisher or class of fishers, or any vessel or class of vessels be registered with the Authority.
- (2) Where a regulation has been issued under Subsection (1), the Director shall maintain a register. [P.L. 1997-60, §78.]

§425. Fishing or other activity without or in contravention of a license prohibited.

- (1) Where a person or vessel engages in fishing or any other activity described in this Chapter for which a license is required, without a license or in contravention of any of its terms or conditions, that person, or, in the case of a vessel, the operator commits an offense and upon conviction shall be fined:

(a) in respect of a citizen not acting on behalf of a business enterprise, not less than \$500 and not more than \$10,000, or imprisonment up to 3 months, or both;

(b) in respect of all others, or a person or persons acting for a business enterprise, not less than \$5,000 and not more than \$750,000, and such person shall not be permitted to engage in fishing or the relevant activity, or if a license has been issued it will be suspended, for a period of at least three months from the date of conviction.

(2) Each day of a continuing violation under this Section shall be considered a separate offense.

(3) Where an offense against this Title has been committed by any person or board or employed on a fishing vessel, the master of the fishing vessel shall also be guilty of the same offense and shall be subject to applicable fines and penalties.

(4) The provisions of this Section shall not apply to a person who is exempt from obtaining a license under this Title. [P.L. 1997-60, §79.]

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