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Sub. S. B. No. 77

Senator Grendell

**Cosponsors: Senators Spada, Mumper, Harris, Miller, D., Niehaus, Roberts,
Sawyer, Schaffer, Schuler, Smith, Buehrer, Morano, Padgett, Miller, R.,
Wilson, Mason, Faber**

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A B I L L

To amend sections 1533.34, 1533.341, 1533.342, 1
1533.35, 1533.36, 1533.42, 1533.62, 1533.63, 2
1533.631, 1533.64, and 2953.32 and to enact 3
sections 1533.343 and 1533.641 of the Revised Code 4
to make changes to the law governing commercial 5
fishing. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1533.34, 1533.341, 1533.342, 7
1533.35, 1533.36, 1533.42, 1533.62, 1533.63, 1533.631, 1533.64, 8
and 2953.32 be amended and sections 1533.343 and 1533.641 of the 9
Revised Code be enacted to read as follows: 10

Sec. 1533.34. No person shall use or operate, for the purpose 11
of taking fish, a boat, net, or device other than a minnow net or 12
hook and line with bait or lure, in any of the waters of the state 13
wherein fishing with nets is licensed by law, without a license 14
for that gear from the chief of the division of wildlife. The 15
application for a license and all licenses required by section 16
1533.35 of the Revised Code shall be in such form as the chief 17

prescribes. 18

When a person applies to the chief for a license, the chief, 19
~~upon receiving the proper fees,~~ may issue the license if the 20
person satisfies the qualifications established in division (C) of 21
section 1533.342 of the Revised Code and the chief receives the 22
proper fees. Upon proof of violation of this section, the chief 23
may refuse to issue or renew any license. A license shall remain 24
in force and entitle the holder thereof to fish as permitted by 25
law from the date of issuance to and including the last day of the 26
season for which the license was issued. The license shall be 27
carried by the operator of a boat, net, or other device while the 28
boat, net, or other device is being used in fishing and shall be 29
exhibited on demand to any wildlife officer, constable, sheriff, 30
deputy sheriff, or other police officer, or the chief. No licensee 31
shall fail to exhibit the license on demand to any proper officer. 32
Each boat, net, or other device used in fishing contrary to this 33
section and each net or other device used or operated without 34
having the metal license tag attached thereto as provided by law 35
constitutes a separate offense. 36

Nonresident commercial ~~fishermen~~ fishers and their fishing 37
gear shall not be licensed to fish in this state unless a 38
reciprocal agreement is in force. A resident who purchases 39
commercial fishing gear from out of state, or purchases a boat 40
that has been registered less than a year in the state, shall give 41
bona fide evidence of ownership of at least fifty-one per cent of 42
the boat or gear whenever requested to do so by the chief or ~~his~~ 43
the chief's designated representative. 44

No person shall fail to comply with any provision of this 45
section or division rules adopted pursuant thereto. 46

Sec. 1533.341. The chief of the division of wildlife with the 47
approval of the wildlife council, in managing the Lake Erie 48

fishery resources, may utilize and establish by division rule a 49
quota management system that shall consist of determining on a 50
scientific basis by species and number or pounds the maximum 51
allowable annual taking of those fishery resources or part thereof 52
in order to prevent over exploitation of any species and assure 53
the conservation and wise use of all species, and the 54
determination on an equitable basis of the distribution of that 55
maximum allowable annual taking between and within the sport and 56
commercial ~~interests~~ fisheries. 57

The chief and the council, in determining and establishing 58
the apportionment of the maximum allowable annual taking of a 59
species between the sport and commercial ~~interests~~ fisheries, 60
shall be guided by ~~the proportional sport and commercial taking of~~ 61
~~the species during the immediately preceding five years and other~~ 62
pertinent scientific, economic, and social data. 63

The chief and the council, in determining the distribution of 64
the apportionment within the commercial ~~industry~~ fishery, ~~also~~ 65
shall consider ~~the proportional commercial taking of the species~~ 66
~~within the commercial industry during the immediately preceding~~ 67
~~five years and other~~ pertinent scientific, economic, and social 68
data. 69

No person shall fail to comply with any quota set pursuant to 70
this section, other provisions of this section, or division rule 71
adopted pursuant thereto. 72

~~In addition to other penalties provided in the Revised Code,~~ 73
~~the license of any person who is convicted of two violations of~~ 74
~~this section that occurred within a twelve month period is~~ 75
~~suspended upon the second such conviction by operation of law for~~ 76
~~a period of sixty fishing season days immediately following that~~ 77
~~conviction.~~ 78

~~In addition to other penalties provided in the Revised Code,~~ 79

~~the license of any person who is convicted of three or more 80
violations of this section that occurred within a twelve month 81
period is suspended upon the third or subsequent such conviction 82
by operation of law for a period of eighteen fishing season months 83
immediately following that conviction. 84~~

~~During any period of suspension, no person shall use or 85
engage in fishing with commercial gear owned, used, or controlled 86
at the time of conviction by the licensee whose license has been 87
suspended. 88~~

~~Any person whose license has been suspended or revoked by 89
operation of law pursuant to any provision of this chapter or 90
Chapter 1531. of the Revised Code is not eligible to apply for or 91
receive a new license during the period of the suspension or 92
revocation. 93~~

Sec. 1533.342. (A) The chief of the division of wildlife, 94
with the approval of the wildlife council, may limit the type and 95
number of commercial fishing licenses to be issued for fishing in 96
the Lake Erie fishing district and other water wherein nets are 97
licensed by law, except that such limitations shall not prohibit 98
any person who was issued an Ohio commercial fishing license in 99
the prior fishing season from being issued, upon satisfaction of 100
the qualifications established in division (C) of this section and 101
proper application, a license of the same type for the current 102
fishing season unless the issuance of such a license is prohibited 103
by this chapter or Chapter 1531. of the Revised Code or division 104
rule. 105

In limiting the number and type of licenses, the chief and 106
the council shall give consideration to the number and type of 107
licenses needed to harvest the fish determined to be harvestable; 108
the capacity of the boats and characteristics of the equipment 109
owned or used by the applicant; and any other facts or data 110

relating to the protection, preservation, management, and 111
utilization of fish species in a biologically sound manner. 112

(B) The chief, in prescribing forms for license applications, 113
may require the applicant to list information relating to the kind 114
and condition of boats and fishing equipment proposed to be used 115
by the applicant, port or ports of entry, years of commercial 116
fishing experience, quantity and kinds of fish taken during the 117
previous five years, conviction records relating to Chapter 1531. 118
and this chapter of the Revised Code and division rules, and any 119
other facts the chief determines necessary to assist ~~him~~ the chief 120
in determining whether or not the applicant may engage in 121
commercial fishing in accordance with those chapters and division 122
rules. All questions shall be answered fully and completely by the 123
applicant. The application shall be sworn to and signed by the 124
applicant before a person authorized to administer oaths. 125

(C) Any person, ~~other than persons licensed during the prior~~ 126
~~fishing season,~~ prior to making application for an Ohio commercial 127
fishing license, first shall satisfy the following qualifications 128
to the satisfaction of the chief: over eighteen years of age; no 129
prior conviction of or plea of guilty to a felony concerning 130
commercial fishing activities for a violation of state or federal 131
law; ninety days Ohio residency immediately preceding application; 132
two years commercial fishing gear experience or holder of an Ohio 133
commercial license of another gear; and posting of a one thousand 134
dollar performance bond or cash deposit in a like amount. In the 135
event the person does not meet these pre-application 136
qualifications or does meet those qualifications, but a license is 137
not granted, the bond or cash deposit immediately shall be 138
returned by the division. In the event the person is granted a 139
license, the bond or cash deposit shall be held by the division 140
during the term of the license. 141

(D) In determining the terms and conditions of any commercial 142

fishing license, the chief, with the approval of the wildlife 143
council, may do both of the following: 144

~~(A)~~(1) Fix by species, the weight, number, or size of fish to 145
be taken; 146

~~(B)~~(2) Specify the home port and up to two alternate ports at 147
which the licensee shall land ~~his~~ the licensee's catch, as listed 148
on the licensee's application. 149

(E) Any wildlife officer, or other division employee 150
designated by the chief to inspect commercial fishing operations, 151
may enter upon any property used, owned, or leased by the holder 152
of a commercial fishing license and may inspect any boat, net, 153
seine, or other equipment used in commercial fishing; any building 154
or premises used to hold, store, repair, or build commercial 155
fishing gear or equipment; and any building or premises used in 156
boxing, storing, or processing fish. No person shall assault, 157
threaten, abuse, or interfere with any wildlife officer or 158
designated inspector when carrying out an inspection under 159
authority of this section, nor shall any person prohibit such an 160
inspection. 161

(F) No person shall fail to comply with this section or a 162
division rule adopted pursuant thereto. 163

(G) No person having been issued a commercial fishing license 164
shall fail to comply with all terms, specifications, and 165
conditions set forth in the license. 166

(H)(1) In addition to other penalties provided in the Revised 167
Code, the license of any person who is convicted of assaulting, 168
threatening, abusing, or interfering with any person inspecting by 169
authority of this section is suspended upon such conviction by 170
operation of law for a period of eighteen fishing season months 171
immediately following that conviction. 172

(2) In addition to other penalties provided in the Revised 173

Code, the license of any person who is convicted of two violations 174
of provisions of this section relating to inspection or terms and 175
conditions of any commercial fishing license that occurred within 176
a twelve-month period is suspended upon the second such conviction 177
by operation of law for a period of sixty fishing season days 178
immediately following that conviction. 179

(3) In addition to other penalties provided in the Revised 180
Code, the license of any person who is convicted of three or more 181
violations of provisions of this section relating to inspection or 182
terms and conditions of any commercial fishing licenses that 183
occurred within a twelve-month period is suspended upon the third 184
or subsequent such conviction by operation of law for a period of 185
eighteen fishing season months immediately following that 186
conviction. 187

(I) During any period of suspension, no person shall use or 188
engage in fishing with commercial gear owned, used, or controlled 189
at the time of conviction by the licensee whose license has been 190
suspended. 191

Sec. 1533.343. On and after March 1, 2008, no commercial 192
fishing licensee shall use or engage in fishing with commercial 193
gear unless the licensee uses vessel and catch monitoring devices 194
in accordance with requirements and procedures established by the 195
chief of the division of wildlife. The chief shall establish 196
requirements and procedures concerning vessel and catch monitoring 197
devices by division rule. A licensee shall pay the costs of 198
purchasing, installing, and maintaining the devices. 199

Sec. 1533.35. (A) Commercial fishing devices shall be 200
annually licensed as follows: 201

(1) Trap and fyke nets, for the first twenty nets or any 202
portion thereof, eight hundred dollars; and for each additional 203

group of ten such nets or any portion thereof, four hundred	204
dollars;	205
(2) For each seine of one hundred fifty rods or less in	206
length other than an inland fishing district seine, four hundred	207
dollars;	208
(3) For each seine over one hundred fifty rods in length	209
other than an inland fishing district seine, six hundred dollars;	210
(4) For each inland fishing district seine, one hundred	211
dollars;	212
(5) For each carp apron, one hundred dollars;	213
(6) For one trotline with seventy hooks or less attached	214
thereto, twenty dollars;	215
(7) For each trotline, or trotlines, with a total of more	216
than seventy hooks attached thereto, one hundred dollars;	217
(8) For each dip net, one hundred dollars.	218
The license fee for other commercial fishing gear not	219
mentioned in this section, as approved by the chief of the	220
division of wildlife, shall be set by the chief with approval of	221
the wildlife council.	222
Commercial fishing gear owned or used by a nonresident may be	223
licensed in this state only if a reciprocal agreement is in effect	224
as provided for in section 1533.352 of the Revised Code.	225
All commercial license fees shall be paid upon application or	226
shall be paid one-fourth upon application with the balance due and	227
owing within ninety days of the date of application, except that	228
those license fees of one hundred dollars or less shall be paid in	229
full at the time of application.	230
(B) Royalty fees are hereby established on the following	231
species of fish when taken commercially: catfish, white bass, and	232
yellow perch.	233

The amount of the royalty fees shall be as follows: on the 234
species taken for which an allowable catch or quota has been 235
established by division rule, five cents per pound. On the species 236
taken for which an allowable catch or quota has not been 237
established by division rule, two cents per pound. 238

All royalty fees established or provided for in this section 239
shall be paid by the license holder to the division. No person may 240
be issued a commercial fishing license until all royalty fees due 241
from that person for the preceding fishing season have been paid 242
in full. The chief may request the attorney general to recover any 243
royalty fee or amount thereof that is not paid by the opening date 244
of the next fishing season, and the attorney general shall 245
commence appropriate legal proceedings to recover the unpaid fee 246
or amount. 247

All commercial fishing license moneys and all other fees 248
collected from commercial fishers shall be deposited in the state 249
treasury in accordance with section 1533.33 of the Revised Code. 250

No person shall fail to comply with any provision of this 251
section or a division rule adopted pursuant to it. 252

~~In addition to other penalties provided in the Revised Code,~~ 253
~~the license of any person who is convicted of one or more~~ 254
~~violations of this section shall be suspended upon the conviction~~ 255
~~by operation of law for a period of eighteen fishing season months~~ 256
~~immediately following the conviction.~~ 257

~~During any period of suspension, no person shall use or~~ 258
~~engage in fishing with commercial gear owned, used, or controlled~~ 259
~~at the time of conviction by the licensee whose license has been~~ 260
~~suspended.~~ 261

Sec. 1533.36. (A) No fishing license issued pursuant to 262
section 1533.32 of the Revised Code is transferable, and no 263

~~fisherman~~ fisher shall carry a license that was issued in the name 264
of another person or that does not contain the signature of the 265
agent issuing it. 266

(B) Notwithstanding any other provision in the Revised Code 267
and except as otherwise provided by division rule, a licensee 268
holding a commercial fishing license issued pursuant to section 269
1533.35 of the Revised Code may transfer that license to a person 270
holding a license issued under that section or to a person meeting 271
the qualifications set forth in section 1533.342 of the Revised 272
Code. Such a transfer is subject to all of the following 273
conditions: 274

(1) The transferred license shall not be sold, offered for 275
sale, or bartered to any person. 276

(2) The chief of the division of wildlife, with the approval 277
of the director of natural resources, shall determine if any quota 278
species of fish are transferable with the transferred license. In 279
making the determination, the chief shall use biological, social, 280
and economic data. 281

(3) The transferred license is limited to the type of 282
commercial fishing gear for which the original license was 283
issued. 284

~~(2)(4)~~ (4) The transfer does not affect any other commercial 285
fishing license privilege possessed by the transferor, ~~and the 286
transferor, as permitted by law, may continue to renew and use any 287
license not transferred.~~ 288

~~(3)(5)~~ (5) Application for the transfer may be made at any time 289
and shall be made simultaneously by the transferor and transferee 290
on forms provided by the division of wildlife. 291

~~(4)(6)~~ (6) When a commercial fishing license is transferred 292
during the open commercial fishing season, the transferee may be 293
issued a license only upon receipt by the division of payment in 294

an amount equal to the annual fees set forth in section 1533.35 of 295
the Revised Code for the type of commercial fishing gear to be 296
transferred plus any unpaid fees that have not been paid by the 297
transferor at the time of transfer. The division shall not refund 298
fees previously paid by a transferor. 299

~~(5)~~(7) A commercial fishing license shall be transferred only 300
upon payment to the division of the royalty fees imposed by 301
section 1533.35 of the Revised Code that have accrued to the date 302
of transfer. Royalty fees that accrue with regard to the license 303
on or after the date of transfer are solely the responsibility of 304
the transferee. 305

~~(6)~~(8) A commercial fishing license may be transferred at any 306
time, but it shall not be transferred if the license is suspended 307
at the time transfer is sought, or if the licensee has been 308
charged with a violation that could result in license suspension. 309

~~(7)~~(9) After determining that the transfer of a commercial 310
fishing license is proper, the chief ~~of the division of wildlife~~ 311
shall effect the transfer by revocation of the license of the 312
transferor and simultaneous issuance of the appropriate license to 313
the transferee. 314

Sec. 1533.42. Except as otherwise provided by division rule, 315
every licensee taking fish with commercial fishing gear, except a 316
trotline of seventy hooks or less, in any of the waters mentioned 317
in this chapter and Chapter 1531. of the Revised Code or division 318
rule, shall keep accurate reports for each day's catch upon forms 319
provided, and in the manner prescribed, by the chief of the 320
division of wildlife. 321

Every commercial fishing licensee shall keep an accurate 322
record of each day's catch as prescribed upon a ~~monthly~~ daily 323
report form. The report shall include at least the number of 324
pounds of each kind of fish taken, the ~~locality~~ grid fished, the 325

kind and amount of fishing gear lifted, ~~the number of fishing~~ 326
~~nights,~~ the number of lifts, and any other data the biologists 327
employed by the division of wildlife require in following the 328
trend of the fisheries. The licensee shall report each ~~month~~ day, 329
under oath when requested to do so, those data to the chief. 330

The daily catch data shall be recorded accurately ~~on the~~ 331
~~respective date upon a report form approved by the chief no later~~ 332
~~than twelve noon on the day following the day in which the fish~~ 333
~~were taken. The monthly report and any other report required~~ 334
~~pursuant to this section shall be submitted to the division no~~ 335
~~later than the fifteenth day of the month following the end of the~~ 336
~~ealendar month in which the fish were taken~~ in a manner and on a 337
form prescribed by the chief in division rule. 338

A licensee shall contact the chief or the chief's designee 339
when the licensee is in transit to the licensee's trap nets to 340
lift, move, pull, remove, clean, or maintain the trap nets for any 341
reason and also shall contact the chief or the chief's designee 342
when returning to land with a daily catch of fish from a trap net 343
indicating the licensee's estimated time of arrival at a specific 344
port and any other information required by the chief. The licensee 345
shall contact the chief or the chief's designee by using a 346
cellular telephone, radio, or other communication device in a 347
manner prescribed by the chief. 348

No person shall fail to comply with any report procedure 349
provided for in this section, other provisions of this section, or 350
division rule adopted pursuant thereto. 351

~~In addition to other penalties provided in the Revised Code,~~ 352
~~the license of any person who is convicted of two violations of~~ 353
~~this section that occurred within a twelve month period is~~ 354
~~suspended upon the second such conviction by operation of law for~~ 355
~~a period of sixty fishing season days immediately following that~~ 356
~~conviction.~~ 357

~~In addition to other penalties provided in the Revised Code, 358
the license of any person who is convicted of three or more 359
violations of this section that occurred within a twelve month 360
period is suspended upon the third or subsequent such conviction 361
by operation of law for a period of eighteen fishing season months 362
immediately following that conviction. 363~~

~~During any period of suspension, no person shall use or 364
engage in fishing with commercial gear owned, used, or controlled 365
at the time of conviction by the licensee whose license has been 366
suspended. 367~~

Sec. 1533.62. The dimensions and specifications for seines 368
provided in this section shall apply except as otherwise provided 369
by division rule. 370

Carp, buffalo fish, ~~mullett~~, suckers, sheepshead, goldfish, 371
bowfin, and gizzard shad may be taken with a seine only in the 372
bays, marshes, estuaries, or inlets bordering upon, flowing into, 373
or in any manner connected with Lake Erie, except in any of these 374
waters that are in the Lake Erie fishing district where they may 375
be taken with other nets as provided in this chapter and Chapter 376
1531. of the Revised Code. The meshes of one-third of each wing of 377
such a seine, next to the brails, shall measure not less than five 378
inches stretched mesh, and the meshes of the next one-third of 379
each wing shall measure not less than four and one-half inches 380
stretched mesh. The balance of the seine shall measure not less 381
than four inches stretched mesh. All measurements shall be made on 382
the bar as provided in section 1533.52 of the Revised Code. Such 383
fish may be taken only with the seine prescribed in this section 384
in the Ottawa river, no farther up than the Ann Arbor bridge; in 385
the Maumee river, no farther up than the Toledo Cherry street 386
bridge; in the Portage river and in Portage bay, no farther up 387
than one-half mile west of the junction of the Portage and Little 388

Portage rivers; in the Sandusky river, no farther up than an 389
imaginary line running from the west point of Squaw island 390
straight across Sandusky river to Teal Pond Point, thence straight 391
south to the mainland; in Mud creek and in Mud creek bay, no 392
farther up than an imaginary line running straight across Mud 393
creek at a right angle with the course of the stream one-half mile 394
west of the Mud Creek bridge on Port Clinton road; and in the 395
Lacarbe creek, Little Portage river, Tousaint river, Turtle creek, 396
Crane Creek, and Ward's canal, no farther up than the water level 397
of Lake Erie extends in these streams. No person shall set and 398
leave stationary a seine, net, or other device that will tend to 399
interfere with the free movement of fish into or out of the mouth 400
of any stream flowing into or in any manner connected with Lake 401
Erie, wherein fishing with nets is permitted by law, or up or down 402
any section of such streams. In the Lake Erie fishing district, a 403
smaller mesh may be used in the bag of a seine, but such a small 404
mesh bag shall not exceed three hundred fifty feet in length, of 405
which two hundred feet shall be made of twine with meshes not less 406
than three inches stretched mesh, fishing measure, measured on the 407
bar as provided in section 1533.52 of the Revised Code. 408

No seine shall be used in fishing or had in possession in 409
this state of a greater length than three hundred rods. 410

This section does not permit the use of any net in any stream 411
flowing into Lake Erie east of the mouth of Sandusky bay, except a 412
minnow net as provided in section 1533.57 of the Revised Code. 413

No person shall draw, set, place, locate, or maintain any net 414
or seine except a minnow net in that portion of Sandusky bay or 415
Lake Erie lying within the area starting at the northeast end of 416
the Cedar Point jetty, thence on a line drawn straight from the 417
northeast end of Cedar Point jetty to Shafer's dock on Marblehead, 418
thence to the western extremity of Johnson's island, thence to the 419
loading dock of the Baltimore and Ohio Railroad, and back to the 420

point of origin. 421

No person shall draw, set, place, locate, or maintain any net 422
except a minnow net in that portion of Sandusky bay lying between 423
Cedar Point and the mainland and east of an imaginary line running 424
straight across Sandusky bay from the extreme west point of Cedar 425
Point to the Baltimore and Ohio elevator dock. 426

No person shall fail to comply with any provisions of this 427
section or division rule adopted pursuant thereto. 428

~~In addition to other penalties provided in the Revised Code 429
the license of any person who is convicted of two violations of 430
this section that occurred within a twelve month period is 431
suspended upon the second such conviction by operation of law for 432
a period of five fishing days immediately following that 433
conviction. 434~~

~~In addition to other penalties provided in the Revised Code 435
the license of any person who is convicted of three or more 436
violations of this section that occurred within a twelve month 437
period is suspended upon the third or subsequent such conviction 438
by operation of law for a period of twenty fishing season days 439
immediately following that conviction. 440~~

~~During any period of suspension, no person shall use or 441
engage in fishing with commercial gear owned, used, or controlled 442
at the time of conviction by the licensee whose license has been 443
suspended. 444~~

Sec. 1533.63. Except as otherwise provided by division rule, 445
no person shall take, catch, buy, sell, transport, or possess a 446
whitefish less than seventeen inches in length, a sturgeon less 447
than forty-eight inches in length, a catfish less than fourteen 448
and one-half inches in length, a yellow perch less than eight and 449
one-half inches in length, a yellow perch fillet or part fillet of 450

not less than five and five-eighths inches in length, a headless 451
yellow perch less than six and seven-eighths inches in length, a 452
white bass or white bass hybrid less than eleven inches in length, 453
a headless white bass or white bass hybrid less than eight and 454
three-fourths inches in length, a white bass or white bass hybrid 455
fillet or part thereof less than six and one-half inches in 456
length, a bullhead less than nine inches in length, or a cisco 457
less than eleven inches in length, ~~a buffalo fish less than~~ 458
~~fifteen inches in length, a sucker less than ten inches in length,~~ 459
~~or a coho less than twenty five inches in round length or~~ 460
~~twenty one and one half inches when headless.~~ All such fish caught 461
or taken of a weight or length less than that prescribed in this 462
section or as may be provided by the chief of the division of 463
wildlife immediately shall be released with as little injury as 464
possible while the net, seine, trotline, dip net, or other fishing 465
device is being lifted, pulled, or hauled. 466

No person shall release such undersized fish or species 467
protected by this chapter and Chapter 1531. of the Revised Code or 468
division rule into a privately owned pond, lake, live car, or 469
other enclosure. No person shall bring ashore, or possess aboard a 470
boat used in commercial fishing when going to or returning from 471
nets or other fishing devices, a fish with its head or tail 472
removed or in such condition that its length, weight, or species 473
cannot be determined. 474

This section does not prohibit the catching, taking, or 475
possession of such undersized fish when caught or taken with hook 476
and line, other than a commercially licensed trotline, but when 477
such fish are so taken, they cannot be bought or sold. 478

No licensed commercial fishers, or person required to have a 479
commercial fishing license under section 1533.34 of the Revised 480
Code, shall take walleye, sauger, whitefish, mooneye, cisco, 481
burbot, sturgeon, and blue pike; brook, brown, rainbow, and lake 482

trout; coho, chinook, and kokanne salmon; or other species 483
protected by this chapter and Chapter 1531. of the Revised Code or 484
division rule, from Lake Erie or its tributaries or possess such 485
fish aboard a boat used in commercial fishing when going to or 486
returning from nets or other fishing devices. All such fish caught 487
or taken from a commercial fishing device immediately shall be 488
released with as little injury as possible while the fishing 489
device is being lifted, pulled, or hauled. 490

No person shall take, buy, sell, barter, give away, deliver, 491
ship, transport, or possess any package, container, or quantity 492
with more than ten per cent by weight of undersized fish or any 493
other species either round or filleted mentioned in this section 494
or division rule. The entire quantity of fish containing more than 495
ten per cent by weight of undersized fish shall be confiscated 496
along with its containers. No person shall buy, sell, offer for 497
sale, transport, give away, barter, or possess a fish caught or 498
taken out of season or in any manner prohibited or a fish caught 499
or taken unlawfully from waters in or outside the state. All fish 500
brought into the state from another state or country shall be 501
subject to the laws of this state. 502

All fish taken or caught from Ohio waters shall be brought 503
into an Ohio port for inspection. No person shall ship, carry, 504
transport, or cause to be transported any fish taken or caught 505
from Ohio waters directly to a point outside the state. 506

Walleye or sauger originating from outside of this state may 507
be possessed for sale, bought, or sold subject to division rule. 508

No person shall trade, buy, sell, possess, or transport for 509
sale walleye or sauger taken from waters in this state. 510

Each person who holds a permit under section 1533.301 or 511
1533.631 of the Revised Code shall keep accurate written records 512
in the English language of all sales and purchases of freshwater 513

fish. The records shall include the name and address of the buyer 514
and seller, the name of fish, the amount of fish in pounds, and 515
the date of sale or purchase. Records for trout, bullhead, 516
herring, whitefish, sauger, walleye, yellow perch, white bass, 517
sturgeon, and channel catfish shall be kept on forms provided by 518
the chief. In lieu of keeping the written records concerning sales 519
of freshwater fish as required under this section, a permit 520
holder, upon applying to and receiving the approval of the chief, 521
may keep the sales information required under this section on 522
normal business records, including, but not limited to, receipts 523
and invoices. All records shall be maintained for at least one 524
year and shall be open to inspection to all division of wildlife 525
officers at all reasonable hours. A buyer who purchases fish for 526
the buyer's own consumption shall not be required to keep records, 527
and persons selling fish for personal consumption shall not be 528
required to record the names and addresses of persons purchasing 529
the fish. 530

No person shall fail to comply with any provision of this 531
section or division rule adopted pursuant thereto. 532

~~In addition to other penalties provided in the Revised Code,~~ 533
~~the license of any person who is convicted of two violations of~~ 534
~~this section, other than those relating to ten per cent by weight~~ 535
~~of undersized fish, that occurred within a twelve month period, is~~ 536
~~suspended upon the second such conviction by operation of law for~~ 537
~~a period of sixty fishing season days immediately following that~~ 538
~~conviction.~~ 539

~~In addition to other penalties provided in the Revised Code,~~ 540
~~the license of any person who is convicted of three or more~~ 541
~~violations of this section, other than those relating to ten per~~ 542
~~cent by weight of undersized fish, that occurred within a~~ 543
~~twelve month period is suspended upon the third or subsequent such~~ 544
~~conviction by operation of law for a period of eighteen fishing~~ 545

~~season months immediately following that conviction.~~ 546

~~In addition to other penalties provided in the Revised Code,~~ 547
~~the license or permit of any person who is convicted of two~~ 548
~~violations of this section relating to walleye or sauger is~~ 549
~~suspended upon the second such conviction by operation of law for~~ 550
~~a period of twenty days immediately following that conviction.~~ 551

~~In addition to other penalties provided in the Revised Code,~~ 552
~~the license or permit of any person who is convicted of three~~ 553
~~violations of this section relating to walleye or sauger is~~ 554
~~suspended upon the third such conviction by operation of law for a~~ 555
~~period of sixty days immediately following that conviction.~~ 556

~~In addition to other penalties provided in the Revised Code,~~ 557
~~any person who is convicted of four violations of this section~~ 558
~~relating to walleye or sauger imported from without the state that~~ 559
~~occurred within a period of thirty six months is prohibited upon~~ 560
~~the fourth such conviction by operation of law from transporting,~~ 561
~~buying, selling, or dealing in walleye and sauger for a period of~~ 562
~~sixty months immediately following that conviction.~~ 563

~~In addition to other penalties provided in the Revised Code,~~ 564
~~the license or permit of any person who is convicted of four~~ 565
~~violations of this section relating to walleye or sauger, other~~ 566
~~than walleye or sauger imported from without the state, is revoked~~ 567
~~upon the fourth such conviction by operation of law, and the~~ 568
~~person is permanently barred from obtaining another license or~~ 569
~~permit of the type revoked.~~ 570

~~In addition to other penalties provided in the Revised Code,~~ 571
~~the license of any person who is convicted of three or more~~ 572
~~violations of this section relating to ten per cent by weight of~~ 573
~~undersized fish that occurred within a twelve month period is~~ 574
~~suspended upon the third or subsequent such conviction by~~ 575
~~operation of law for a period of twenty fishing season days~~ 576

~~immediately following that conviction.~~ 577

~~During any period of suspension or revocation, no person 578
shall use or engage in fishing with commercial gear owned, used, 579
or controlled at the time of conviction by the licensee whose 580
license or permit has been suspended or revoked. 581~~

As used in this section, "sale of fish" includes, but is not 582
limited to, fish sold in the round or part thereof and fish sold 583
as part of a meal or service, but does not include canned fish. 584

~~For purposes of determining any license or permit suspension 585
or revocation required by this section, multiple convictions 586
resulting from violations of this section that occurred at the 587
same time, on the same day, and at the same location, are deemed 588
to be a single conviction of one violation. 589~~

Sec. 1533.631. Any person may apply for a permit to handle 590
commercial fish, or other fish that may be bought or sold under 591
the Revised Code or division rule, at wholesale. Prior to making 592
application for such a permit, a person first shall satisfy the 593
following qualifications to the satisfaction of the chief of the 594
division of wildlife: over eighteen years of age, no prior 595
conviction of or plea of guilty to a felony concerning commercial 596
fishing activities for a violation of state or federal law, and 597
ninety days Ohio residency immediately preceding application. The 598
chief of the division of wildlife shall issue an annual permit 599
granting the applicant the privilege to handle such fish at 600
wholesale at one or more designated premises upon satisfaction of 601
the pre-application qualifications, filing of an application on a 602
form prescribed by the chief, and payment of a fee of sixty-five 603
dollars. No person or a person's agent shall handle at wholesale 604
any fresh water fish or part thereof unless a permit has been 605
issued for the calendar year in which the fish is handled at 606
wholesale for the premises at which the fish is handled. 607

A fish is handled at wholesale for purposes of this section 608
when it is on a premises within the state and is being held, 609
stored, handled, or processed for the purpose of sale to a person 610
who ~~ordinarily~~ resells the fish. 611

The permit required by this section shall be issued subject 612
to the right of entry and inspection of the designated premises of 613
the permittee by any law enforcement officer authorized by section 614
1531.13 of the Revised Code to enforce the laws and rules of the 615
division of wildlife. Such an officer may enter and inspect the 616
designated premises and any box, package, or receptacle, and the 617
contents thereof, for the purpose of determining whether any 618
provision of this chapter or Chapter 1531. of the Revised Code or 619
division rule is being violated. 620

No person holding a permit under this section shall remove a 621
label required by section 1533.301 of the Revised Code unless the 622
box, package, or receptacle bearing the label has been opened or 623
unless the label is replaced with another label that meets the 624
requirements of that section. 625

No person shall fail to comply with any provision of this 626
section or division rule adopted pursuant to it. 627

~~In addition to other penalties provided in the Revised Code,~~ 628
~~the permit of any person who is convicted of two violations of~~ 629
~~this section that occurred within a twelve month period is~~ 630
~~suspended upon the second such conviction by operation of law for~~ 631
~~a period of five fishing season days immediately following that~~ 632
~~conviction.~~ 633

~~In addition to other penalties provided in the Revised Code,~~ 634
~~the permit of any person who is convicted of three or more~~ 635
~~violations of this section that occurred within a twelve month~~ 636
~~period is suspended upon the third or subsequent such conviction~~ 637
~~by operation of law for a period of twenty fishing season days~~ 638

~~immediately following that conviction.~~ 639

~~During any period of suspension, no person shall use or 640
engage in handling commercial fish at wholesale with equipment or 641
facilities owned, used, or controlled at the time of conviction by 642
the permittee whose permit has been suspended.~~ 643

Sec. 1533.64. Fish lawfully confined in a net, or by a device 644
authorized by law, are the property of the owner or person 645
operating the net or other device, and no person other than the 646
owner or person in control of the net or other device shall take 647
or catch from it or possess a fish that is or has been so 648
confined. Each fish taken from and each fish had in possession 649
that was taken from any net or other device legally operated in 650
any of the waters of this state by any person other than the owner 651
or ~~his~~ the owner's agent operating the net or other device 652
constitutes a separate offense. 653

No person shall fail to comply with this section or a 654
division rule adopted pursuant thereto. 655

~~In addition to other penalties provided in the Revised Code, 656
the license of any person who is convicted of two violations of 657
this section that occurred within a twelve month period is 658
suspended upon the second such conviction by operation of law for 659
a period of sixty fishing season days immediately following that 660
conviction.~~ 661

~~In addition to other penalties provided in the Revised Code, 662
the license of any person who is convicted of three or more 663
violations of this section that occurred within a twelve month 664
period is suspended upon the third or subsequent such conviction 665
by operation of law for a period of eighteen fishing season months 666
immediately following that conviction.~~ 667

~~During any period of suspension, no person shall use or 668~~

~~engage in fishing with commercial gear owned, used, or controlled~~ 669
~~at the time of conviction by the licensee whose license has been~~ 670
~~suspended.~~ 671

Sec. 1533.641. (A) If a person is convicted of or pleads 672
guilty to a felony related to commercial fishing activities for a 673
violation of state or federal law, all commercial fishing licenses 674
issued under section 1533.35 of the Revised Code and all permits 675
to handle commercial fish or other fish at wholesale issued under 676
section 1533.631 of the Revised Code to that person are 677
permanently revoked by operation of law. 678

(B)(1) If a commercial fishing licensee, such a licensee's 679
authorized representative, a person that has been issued a permit 680
under section 1533.631 of the Revised Code to handle commercial 681
fish or other fish at wholesale, or such a permittee's authorized 682
representative is convicted of or pleads guilty to a violation of 683
section 1533.341, 1533.343, 1533.41, 1533.42, 1533.62, 1533.63, 684
1533.631, or 1533.64 of the Revised Code or any division rule 685
pertaining to those sections, the licensee's license or the 686
permittee's permit, as applicable, shall be suspended for a period 687
of fifteen fishing season days. Not later than seven days after 688
receipt of a notification under division (F) of this section, the 689
chief of the division of wildlife shall suspend the license or 690
permit. 691

(2) If a person is convicted of or pleads guilty to a second 692
violation of a section of the Revised Code that is listed in 693
division (B)(1) of this section or any division rule pertaining to 694
those sections within ten years after being convicted of or 695
pleading guilty to the first violation, the applicable licensee's 696
license or permittee's permit shall be suspended for a period of 697
thirty fishing season days. Not later than seven days after 698
receipt of a notification under division (F) of this section, the 699

chief shall suspend the license or permit. 700

(3) If a person is convicted of or pleads guilty to a third violation of a section of the Revised Code that is listed in division (B)(1) of this section or any division rule pertaining to those sections within ten years after being convicted of or pleading guilty to the first violation, the applicable licensee's license or permittee's permit shall be permanently revoked. Not later than seven days after receipt of a notification under division (F) of this section, the chief shall revoke the license or permit. 701
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(C) During any period of suspension of a license or permit under this section, no person shall 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 or plea by the licensee or the licensee's authorized representative or by the permittee or the permittee's authorized representative, as applicable. 710
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(D) A person whose license has been suspended by operation of law pursuant to any provision of this chapter or Chapter 1531. of the Revised Code or division rule is not eligible to apply for or receive a new commercial fishing license issued under section 1533.35 of the Revised Code or a permit to handle commercial fish or other fish at wholesale issued under section 1533.631 of the Revised Code during the period of the suspension. 717
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(E) For purposes of determining a license or permit suspension or revocation for a violation of section 1533.63 of the Revised Code, multiple convictions resulting from violations of that section 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. 724
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(F) The clerk of the court before which a person is convicted 730

of or pleads guilty to a violation of state or federal law as 731
described in division (A) of this section or a section of the 732
Revised Code that is listed in division (B)(1) of this section or 733
any division rule pertaining to those sections shall send written 734
notification to the chief of the conviction or plea together with 735
the person's name and address not later than ten days after the 736
date of conviction or plea. 737

Sec. 2953.32. (A)(1) Except as provided in section 2953.61 of 738
the Revised Code, a first offender may apply to the sentencing 739
court if convicted in this state, or to a court of common pleas if 740
convicted in another state or in a federal court, for the sealing 741
of the conviction record. Application may be made at the 742
expiration of three years after the offender's final discharge if 743
convicted of a felony, or at the expiration of one year after the 744
offender's final discharge if convicted of a misdemeanor. 745

(2) Any person who has been arrested for any misdemeanor 746
offense and who has effected a bail forfeiture may apply to the 747
court in which the misdemeanor criminal case was pending when bail 748
was forfeited for the sealing of the record of the case. Except as 749
provided in section 2953.61 of the Revised Code, the application 750
may be filed at any time after the expiration of one year from the 751
date on which the bail forfeiture was entered upon the minutes of 752
the court or the journal, whichever entry occurs first. 753

(B) Upon the filing of an application under this section, the 754
court shall set a date for a hearing and shall notify the 755
prosecutor for the case of the hearing on the application. The 756
prosecutor may object to the granting of the application by filing 757
an objection with the court prior to the date set for the hearing. 758
The prosecutor shall specify in the objection the reasons for 759
believing a denial of the application is justified. The court 760
shall direct its regular probation officer, a state probation 761

officer, or the department of probation of the county in which the 762
applicant resides to make inquiries and written reports as the 763
court requires concerning the applicant. 764

(C)(1) The court shall do each of the following: 765

(a) Determine whether the applicant is a first offender or 766
whether the forfeiture of bail was agreed to by the applicant and 767
the prosecutor in the case. If the applicant applies as a first 768
offender pursuant to division (A)(1) of this section and has two 769
or three convictions that result from the same indictment, 770
information, or complaint, from the same plea of guilty, or from 771
the same official proceeding, and result from related criminal 772
acts that were committed within a three-month period but do not 773
result from the same act or from offenses committed at the same 774
time, in making its determination under this division, the court 775
initially shall determine whether it is not in the public interest 776
for the two or three convictions to be counted as one conviction. 777
If the court determines that it is not in the public interest for 778
the two or three convictions to be counted as one conviction, the 779
court shall determine that the applicant is not a first offender; 780
if the court does not make that determination, the court shall 781
determine that the offender is a first offender. 782

(b) Determine whether criminal proceedings are pending 783
against the applicant; 784

(c) If the applicant is a first offender who applies pursuant 785
to division (A)(1) of this section, determine whether the 786
applicant has been rehabilitated to the satisfaction of the court; 787

(d) If the prosecutor has filed an objection in accordance 788
with division (B) of this section, consider the reasons against 789
granting the application specified by the prosecutor in the 790
objection; 791

(e) Weigh the interests of the applicant in having the 792

records pertaining to the applicant's conviction sealed against 793
the legitimate needs, if any, of the government to maintain those 794
records. 795

(2) If the court determines, after complying with division 796
(C)(1) of this section, that the applicant is a first offender or 797
the subject of a bail forfeiture, that no criminal proceeding is 798
pending against the applicant, and that the interests of the 799
applicant in having the records pertaining to the applicant's 800
conviction or bail forfeiture sealed are not outweighed by any 801
legitimate governmental needs to maintain those records, and that 802
the rehabilitation of an applicant who is a first offender 803
applying pursuant to division (A)(1) of this section has been 804
attained to the satisfaction of the court, the court, except as 805
provided in division (G) of this section, shall order all official 806
records pertaining to the case sealed and, except as provided in 807
division (F) of this section, all index references to the case 808
deleted and, in the case of bail forfeitures, shall dismiss the 809
charges in the case. The proceedings in the case shall be 810
considered not to have occurred and the conviction or bail 811
forfeiture of the person who is the subject of the proceedings 812
shall be sealed, except that upon conviction of a subsequent 813
offense, the sealed record of prior conviction or bail forfeiture 814
may be considered by the court in determining the sentence or 815
other appropriate disposition, including the relief provided for 816
in sections 2953.31 to 2953.33 of the Revised Code. 817

(3) Upon the filing of an application under this section, the 818
applicant, unless indigent, shall pay a fee of fifty dollars. The 819
court shall pay thirty dollars of the fee into the state treasury. 820
It shall pay twenty dollars of the fee into the county general 821
revenue fund if the sealed conviction or bail forfeiture was 822
pursuant to a state statute, or into the general revenue fund of 823
the municipal corporation involved if the sealed conviction or 824

bail forfeiture was pursuant to a municipal ordinance. 825

(D) Inspection of the sealed records included in the order 826
may be made only by the following persons or for the following 827
purposes: 828

(1) By a law enforcement officer or prosecutor, or the 829
assistants of either, to determine whether the nature and 830
character of the offense with which a person is to be charged 831
would be affected by virtue of the person's previously having been 832
convicted of a crime; 833

(2) By the parole or probation officer of the person who is 834
the subject of the records, for the exclusive use of the officer 835
in supervising the person while on parole or under a community 836
control sanction or a post-release control sanction, and in making 837
inquiries and written reports as requested by the court or adult 838
parole authority; 839

(3) Upon application by the person who is the subject of the 840
records, by the persons named in the application; 841

(4) By a law enforcement officer who was involved in the 842
case, for use in the officer's defense of a civil action arising 843
out of the officer's involvement in that case; 844

(5) By a prosecuting attorney or the prosecuting attorney's 845
assistants, to determine a defendant's eligibility to enter a 846
pre-trial diversion program established pursuant to section 847
2935.36 of the Revised Code; 848

(6) By any law enforcement agency or any authorized employee 849
of a law enforcement agency or by the department of rehabilitation 850
and correction as part of a background investigation of a person 851
who applies for employment with the agency as a law enforcement 852
officer or with the department as a corrections officer; 853

(7) By any law enforcement agency or any authorized employee 854

of a law enforcement agency, for the purposes set forth in, and in 855
the manner provided in, section 2953.321 of the Revised Code; 856

(8) By the bureau of criminal identification and 857
investigation or any authorized employee of the bureau for the 858
purpose of providing information to a board or person pursuant to 859
division (F) or (G) of section 109.57 of the Revised Code; 860

(9) By the bureau of criminal identification and 861
investigation or any authorized employee of the bureau for the 862
purpose of performing a criminal history records check on a person 863
to whom a certificate as prescribed in section 109.77 of the 864
Revised Code is to be awarded; 865

(10) By the bureau of criminal identification and 866
investigation, an authorized employee of the bureau, a sheriff, or 867
an authorized employee of a sheriff in connection with a criminal 868
records check described in section 311.41 of the Revised Code; 869

(11) By the chief of the division of wildlife in the 870
department of natural resources or any authorized employee of the 871
division for the issuance or renewal of a commercial fishing 872
license under section 1533.34 or 1533.342 of the Revised Code or 873
for the issuance of a permit to handle commercial fish or other 874
fish at wholesale under section 1533.631 of the Revised Code. 875

When the nature and character of the offense with which a 876
person is to be charged would be affected by the information, it 877
may be used for the purpose of charging the person with an 878
offense. 879

(E) In any criminal proceeding, proof of any otherwise 880
admissible prior conviction may be introduced and proved, 881
notwithstanding the fact that for any such prior conviction an 882
order of sealing previously was issued pursuant to sections 883
2953.31 to 2953.36 of the Revised Code. 884

(F) The person or governmental agency, office, or department 885

that maintains sealed records pertaining to convictions or bail 886
forfeitures that have been sealed pursuant to this section may 887
maintain a manual or computerized index to the sealed records. The 888
index shall contain only the name of, and alphanumeric identifiers 889
that relate to, the persons who are the subject of the sealed 890
records, the word "sealed," and the name of the person, agency, 891
office, or department that has custody of the sealed records, and 892
shall not contain the name of the crime committed. The index shall 893
be made available by the person who has custody of the sealed 894
records only for the purposes set forth in divisions (C), (D), and 895
(E) of this section. 896

(G) Notwithstanding any provision of this section or section 897
2953.33 of the Revised Code that requires otherwise, a board of 898
education of a city, local, exempted village, or joint vocational 899
school district that maintains records of an individual who has 900
been permanently excluded under sections 3301.121 and 3313.662 of 901
the Revised Code is permitted to maintain records regarding a 902
conviction that was used as the basis for the individual's 903
permanent exclusion, regardless of a court order to seal the 904
record. An order issued under this section to seal the record of a 905
conviction does not revoke the adjudication order of the 906
superintendent of public instruction to permanently exclude the 907
individual who is the subject of the sealing order. An order 908
issued under this section to seal the record of a conviction of an 909
individual may be presented to a district superintendent as 910
evidence to support the contention that the superintendent should 911
recommend that the permanent exclusion of the individual who is 912
the subject of the sealing order be revoked. Except as otherwise 913
authorized by this division and sections 3301.121 and 3313.662 of 914
the Revised Code, any school employee in possession of or having 915
access to the sealed conviction records of an individual that were 916
the basis of a permanent exclusion of the individual is subject to 917
section 2953.35 of the Revised Code. 918

Section 2. That existing sections 1533.34, 1533.341, 919
1533.342, 1533.35, 1533.36, 1533.42, 1533.62, 1533.63, 1533.631, 920
1533.64, and 2953.32 of the Revised Code are hereby repealed. 921

Section 3. It is the intent of the General Assembly, by 922
amending sections 1533.34, 1533.341, 1533.342, 1533.35, 1533.36, 923
1533.42, 1533.62, 1533.63, 1533.631, 1533.64, and 2953.32 and 924
enacting sections 1533.343 and 1533.641 of the Revised Code in 925
this act, to protect the resources of Lake Erie and provide for 926
the reasonable regulation of commercial fishing and not to 927
eliminate commercial fishing in this state. 928