

AN ACT concerning fish.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Fish and Aquatic Life Code is amended by changing Sections 5-25, 15-75, 15-85, 15-130, 15-135, 20-35, 20-70, and 20-125 and by adding Sections 1-116, 1-117, 15-46, 20-91, and 20-92 as follows:

(515 ILCS 5/1-116 new)

Sec. 1-116. Roe. "Roe" means the eggs of fish that are whole and intact within the egg sac, whether within the body cavity of the fish or removed. "Roe" does not include eggs removed from the egg sac.

(515 ILCS 5/1-117 new)

Sec. 1-117. Roe-bearing species. "Roe-bearing species" means sturgeon, paddlefish, bowfin, and any other fish listed as such by the Department in an administrative rule.

(515 ILCS 5/5-25) (from Ch. 56, par. 5-25)

Sec. 5-25. Value of protected species; violations
~~Protected aquatic life.~~

(a) Any person who, for profit or commercial purposes, knowingly captures or kills, possesses, offers for sale, sells,

offers to barter, barter, offers to purchase, purchase, delivers for shipment, ships, exports, imports, causes to be shipped, exported, or imported, delivers for transportation, transports or causes to be transported, carries or causes to be carried, or receives for shipment, transportation, carriage, or export any aquatic life, in part or in whole of any of the species protected by this Code, contrary to the provisions of the Code, and that aquatic life, in whole or in part, is valued at or in excess of a total of \$300, as per species value specified in subsection (c) of this Section, commits a Class 3 felony.

A person is guilty of a Class 4 felony if convicted under this Section for more than one violation within a 90-day period if the aquatic life involved in each violation are not valued at or in excess of \$300 but the total value of the aquatic life involved with the multiple violations is at or in excess of \$300. The prosecution for a Class 4 felony for these multiple violations must be alleged in a single charge or indictment and brought in a single prosecution.

Any person who violates this subsection (a) when the total value of species is less than \$300 commits a Class A misdemeanor except as otherwise provided.

(b) Possession of aquatic life, in whole or in part, captured or killed in violation of this Code, valued at or in excess of \$600, as per species value specified in subsection (c) of this Section, shall be considered prima facie evidence

of possession for profit or commercial purposes.

(c) For purposes of this Section, the fair market value or replacement cost, whichever is greater, must be used to determine the value of the species protected by this Code, but in no case shall the minimum value of all aquatic life and their hybrids protected by this Code, whether dressed or not dressed, be less than the following ~~is as follows~~:

(1) For each muskellunge, northern pike, walleye, striped bass, sauger, largemouth bass, smallmouth bass, spotted bass, trout (all species), salmon (all species other than chinook caught from August 1 through December 31), and sturgeon (other than pallid or lake sturgeon) of a weight, dressed or not dressed, of one pound or more, \$4 for each pound or fraction of a pound. For each individual fish with a dressed or not dressed weight of less than one pound, \$4. For parts of fish processed past the dressed state, \$8 per pound.

(2) For each warmouth, rock bass, white bass, yellow bass, sunfish (all species except largemouth, smallmouth, and spotted bass), bluegill, crappie, bullheads, pickerels, yellow perch, ~~and~~ catfish (all species), and mussels of a weight, dressed or not dressed, of one pound or more, \$4 for each pound or fraction of a pound of aquatic life ~~fish~~. For each individual aquatic life ~~fish~~ with a dressed or not dressed weight of less than one pound, \$4. For aquatic life parts ~~of fish~~ processed past

the dressed state, \$8 per pound.

(3) For processed turtle parts, \$6 for each pound or fraction of a pound. For each non-processed turtle, \$8 per turtle.

(4) For frogs, toads, salamanders, lizards, and snakes, \$8 ~~\$2~~ per animal in whole or in part.

(5) For goldeye, mooneye, carp, carpsuckers (all species), suckers (all species), redhorse (all species), buffalo (all species), freshwater drum, skipjack, shad (all species), alewife, smelt, gar, bowfin, ~~mussels~~, chinook salmon caught from August 1 through December 31, and all other aquatic life protected by this Code, not listed in paragraphs (1), (2), (3), or (4) of subsection (c) ~~(b)~~ of this Section, \$1 per pound, in part or in whole.

(6) For each species listed on the federal or State endangered and threatened species list, and for lake and pallid sturgeon, \$150 per animal in whole or in part.

(Source: P.A. 89-66, eff. 1-1-96.)

(515 ILCS 5/15-46 new)

Sec. 15-46. Taking of roe-bearing species by commercial device.

(a) All commercial fishermen shall procure a commercial roe harvest permit in addition to their commercial fishing license before taking roe-bearing species with commercial fishing devices from the waters of the State legally open to commercial

fishing. Any person found guilty of a violation of this subsection (a) is subject to the penalties provided in Section 20-91 of this Code.

(b) Any incidental catch of aquatic life not authorized for taking with commercial devices must be returned immediately without harm to the water. Any person found guilty of a violation of this subsection (b) is guilty of a Class B misdemeanor.

(515 ILCS 5/15-75) (from Ch. 56, par. 15-75)

Sec. 15-75. Record of catch; inspection of record. Commercial fishermen, ~~and~~ musselors, and commercial roe harvesters shall keep an accurate record of their catch. This record, showing the species and number of pounds of fish, ~~or~~ mussels, or roe taken, type of commercial devices used, and location from which taken, shall be open for inspection by the employees of the Department at all times. This information shall be submitted to the Department on forms furnished for that purpose by the Department and at intervals prescribed by the Department. Failure to submit ~~required~~ reports, as required, shall be grounds for license suspension or revocation.

(Source: P.A. 87-833.)

(515 ILCS 5/15-85) (from Ch. 56, par. 15-85)

Sec. 15-85. Dragging nets. It shall be unlawful to pull,

drag, haul, or draw to, towards, or near the shore of any body of water, or to or against a backstop, a net device of any kind except a seine. Nothing in this Section, however, shall prohibit the use of a trammel or gill net attached to a single boat while the net is being placed, set, or adjusted.

(Source: P.A. 87-833.)

(515 ILCS 5/15-130) (from Ch. 56, par. 15-130)

Sec. 15-130. Gill or trammel net. It shall be unlawful to use a gill or trammel net except in the Mississippi River, in the Ohio River, and in the Illinois River from its mouth up to the Illinois River bridge, Highway Route 89, including adjacent backwaters but not above the mouth of any stream, ditch, or tributary connected to these backwaters. No trammel net used under this Section shall have meshes less than 2 inches bar measurement and no gill net used under this Section shall have meshes less than 4 inches bar measurement. No gill or trammel net shall be less than 100 feet in length.

All gill or trammel nets that are set in any body of water shall be under the immediate supervision of the operator, who may be the licensee or his or her employee, except (i) from May 1 to September 30, (ii) when the nets are set under the ice, ~~or~~ (iii) from sunset to sunrise, or (iv) as specified by administrative rule. Immediate supervision shall be defined as the operator being on the waters where the nets are set to be readily available to identify the nets to law enforcement

officers empowered to enforce this Code. It shall be unlawful for any employee on any one day to lift or attend nets of more than one licensee.

All gill or trammel nets set under the ice shall be at a distance of not less than 100 yards from any natural opening in the ice.

The Department may modify provisions of this Section as provided in Section 1-135.

(Source: P.A. 90-435, eff. 1-1-98.)

(515 ILCS 5/15-135) (from Ch. 56, par. 15-135)

Sec. 15-135. License in possession.

(a) It is unlawful, for the purposes of operation of fishing or musseling devices, (i) for licensed ~~licensed commercial fishermen or and musselors shall be required to maintain all necessary licenses in accordance with Section 20-65, and it shall be unlawful for any licensee to loan licenses to any other individual, or (ii) for any person to possess the license of another for operation of fishing or musseling devices.~~

(b) It shall be unlawful to disturb in any manner the licensed devices of another person without consent of that person.

(Source: P.A. 87-833.)

(515 ILCS 5/20-35) (from Ch. 56, par. 20-35)

Sec. 20-35. Offenses.

(a) Except as prescribed in Section 5-25 and unless otherwise provided in this Code, any person who is found guilty of violating any of the provisions of this Code, including administrative rules, is guilty of a petty offense.

Any person who violates any of the provisions of Section 15-45 or 15-60, including administrative rules related to those Sections, is guilty of a Class C misdemeanor.

Any person who violates any of the provisions of Section 5-20, 10-5, 10-10, 10-15, 10-20, 10-25, 10-30, 10-35, 10-50, 10-60, 10-70, 10-75, 10-95, 10-115, 10-135, 15-5, 15-10, 15-15, 15-20, 15-30, 15-32, 15-40, 15-46(b) ~~15-45~~, 15-55, 15-60, 15-65, ~~15-75~~, 15-80, 15-85, 15-90, 15-95, 15-100, 15-105, 15-110, 15-115, 15-120, 15-130, ~~15-140~~, 20-70, 20-75, 20-80, 20-85 (except subsections (b), (c), (d), (e), (f), and (g)), 20-125(c), 25-5, 25-10, 25-15, or 25-20 of this Code, including administrative rules relating to those Sections, is guilty of a Class B misdemeanor.

Any person who violates any of the provisions of Section 1-200, 1-205, 10-55, 10-80, 10-100(b), 15-35, 15-46(a), 15-135, 20-91, 20-92, ~~or 20-120~~, or 20-125(d) of this Code, including administrative rules relating to those Sections, is guilty of a Class A misdemeanor.

Any person who violates any of the provisions of this Code, including administrative rules, during the 5 years following the revocation of his or her license, permit, or privileges

under Section 20-105 is guilty of a Class A misdemeanor.

Any person who violates Section 5-25 of this Code, including administrative rules, is guilty of a Class 3 felony except as otherwise provided in subsection (a) of Section 5-25.

(b)(1) It is unlawful for any person to take or attempt to take aquatic life from any aquatic life farm except with the consent of the owner of the aquatic life farm. Any person possessing fishing tackle on the premises of an aquatic life farm is presumed to be fishing. The presumption may be rebutted by clear and convincing evidence. All fishing tackle, apparatus, and vehicles used in the violation of this subsection (b) shall be confiscated by the arresting officer. Except as otherwise provided in this subsection, the seizure and confiscation procedures set forth in Section 1-215 of this Code shall apply. If the confiscated property is determined by the circuit court to have been used in the violation of this subsection (b), the confiscated property shall be sold at public auction by the county sheriff of the county where the violation occurred. The proceeds of the sale shall be deposited in the county general fund; provided that the auction may be stayed by an appropriate court order.

(2) A violation of paragraph (1) of this subsection (b) is a Class A misdemeanor for a first offense and a Class 4 felony for a second or subsequent offense.

(c)(1) It is unlawful for any person to trespass or fish on an aquatic life farm located on a strip mine lake or other body

of water used for aquatic life farming operations, or within a 200 foot buffer zone surrounding cages or netpens that are clearly delineated by buoys of a posted aquatic life farm, by swimming, scuba diving, or snorkeling in, around, or under the aquatic life farm or by operating a watercraft over, around, or in the aquatic life farm without the consent of the owner of the aquatic life farm.

(2) A violation of paragraph (1) of this subsection (c) is a Class B misdemeanor for a first offense and a Class A misdemeanor for a second or subsequent offense. All fishing tackle, apparatus, and watercraft used in a second or subsequent violation of this subsection (c) shall be confiscated by the arresting officer. Except as otherwise provided in this subsection, the seizure and confiscation procedures set forth in Section 1-215 of this Code shall apply. If the confiscated property is determined by the circuit court to have been used in a violation of this subsection (c), the confiscated property shall be sold at public auction by the county sheriff of the county where the violation occurred. The proceeds of the sale shall be deposited in the county general fund; provided that the auction may be stayed by an appropriate court order.

(d) Offenses committed by minors under the direct control or with the consent of a parent or guardian may subject the parent or guardian to the penalties prescribed in this Section or as otherwise provided in this Code.

(e) In addition to any fines imposed under this Section, or as otherwise provided in this Code, any person found guilty of unlawfully taking or possessing any aquatic life protected by this Code shall be assessed a civil penalty for that aquatic life in accordance with the values prescribed in Section 5-25 of this Code. This civil penalty shall be imposed at the time of the conviction by the Circuit Court for the county where the offense was committed. Except as otherwise provided for in subsections (b) and (c) of this Section, all penalties provided for in this Section shall be remitted to the Department in accordance with the provisions of Section 1-180 of this Code.

(Source: P.A. 94-222, eff. 7-14-05; 94-592, eff. 1-1-06; revised 8-19-05.)

(515 ILCS 5/20-70) (from Ch. 56, par. 20-70)

Sec. 20-70. Non-resident and resident aquatic life dealers. ~~Non-resident and resident aquatic life dealers shall maintain records of all fish and other aquatic life bought, sold, or shipped in Illinois. These records shall include the name of the seller and the species and poundage of the fish or aquatic life involved. The records shall be kept for a minimum of one year from the date of the transaction and shall be made immediately available to authorized employees of the Department upon request.~~

(a) Non-resident aquatic life dealers. Any person not a resident of Illinois who sells or ships to other wholesalers,

retailers, or consumers any of the aquatic life protected by this Code, whether from waters within or without the State is a non-resident aquatic life dealer within the meaning of this Code.

All licenses issued to non-resident aquatic life dealers are valid only in the location described and designated in the application for the license. Wholesalers may deliver their products by truck or common carrier of any type but must possess a separate license for each truck from which aquatic life are being sold if business is solicited from the trucks.

Application for a non-resident aquatic life dealer's license shall be made to and upon forms furnished by the Department and shall be in the form as the Department may prescribe. The annual fee for a non-resident aquatic life dealer's license shall be \$100. All non-resident aquatic life dealer licenses shall expire on January 31 of each year.

Non-residents purchasing aquatic life in Illinois for sale solely outside the State are exempt from possessing an aquatic life dealer's license if purchases are made from a licensed resident wholesale or retail aquatic life dealer.

(b) Resident aquatic life dealer's licenses. Any person conducting a fish market or buying, selling, or shipping any aquatic life (except minnows) protected by this Code, whether from waters within or without the State, shall first procure a license from the Department to do so, including any commercial fisherman selling live fish for stocking only. Any commercial

fisherman selling fish legally caught or taken by themselves to a resident licensed wholesale aquatic life dealer, however, is exempt from the provisions of this Section.

(1) Wholesale aquatic life dealer's license. Any resident of this State who, within the State of Illinois, conducts a wholesale fish market or who sells or ships to any other wholesaler, retailer, or other commercial institution aquatic life protected by this Code, whether from waters within or without the State, is a resident wholesale aquatic life dealer in the meaning of this Code.

This provision, however, does not apply to minnows or saltwater species commonly used as seafood that will not survive in freshwater, such as lobsters, clams, mussels, and oysters.

All licenses issued to resident wholesale aquatic life dealers are valid only in the location described and designated in the application for license. Wholesale aquatic life dealers may deliver their products by truck or other common carrier but must possess a separate license for each truck from which aquatic life is being sold if business is solicited from the truck. Applications for resident wholesale aquatic life dealer's licenses shall be made to and upon forms furnished by the Department, which shall be in the form as the Department may prescribe. The annual license fee for each wholesale aquatic life dealer's license is \$50. All wholesale aquatic life dealer's

licenses shall expire on January 31 of each year.

(2) Retail aquatic life dealer's license. Any resident of the State of Illinois who, within the State of Illinois, conducts a retail fish market where he or she sells or offers for sale any aquatic life protected by this Code, whether from waters from within or without the State, is a retail aquatic life dealer in the meaning of this Code.

This provision, however, does not apply to minnows or saltwater species commonly used as seafood that will not survive in freshwater, such as lobsters, clams, mussels, and oysters.

All licenses issued to resident aquatic life dealers are valid only in the location described and designated in the application for the license. Retailers may deliver their products by truck or other common carrier but must possess a separate license for each truck from which aquatic life is being sold if business is solicited from the truck.

Applications for resident retail aquatic life dealer's licenses shall be made to and upon forms furnished by the Department, which shall be in the form the Department may prescribe. The annual license for each resident retail aquatic life dealer's license is \$10. All these licenses shall expire on January 31 of each year.

(3) Separate licenses. A license shall be procured for each separate fish market or place of business operated by

any wholesale or retail aquatic life dealer, whether a resident or non-resident, and for each vehicle from which aquatic life is sold. All licenses shall be conspicuously displayed at all times.

(c) The Department may adopt administrative rules pertaining to non-resident and resident aquatic life dealers. Any person who violates any provision of this Section 20-70, or related administrative rule, is guilty of a Class B misdemeanor.

(Source: P.A. 94-592, eff. 1-1-06.)

(515 ILCS 5/20-91 new)

Sec. 20-91. Commercial roe harvest permit.

(a) Any commercial fisherman who engages in taking roe-bearing species with commercial fishing devices from legally open waters of the State must annually procure a commercial roe harvest permit from the Department. All individuals assisting a licensed commercial roe harvester in taking roe bearing fishes must also have a commercial roe harvest permit unless these individuals are under the direct supervision of and aboard the same watercraft as the licensed commercial roe harvester. The annual fee for a commercial roe harvest permit is \$250 for State residents and \$3,500 for non-residents. All commercial roe harvest permits shall expire on May 31 of each year.

(b) It is unlawful for a commercial roe harvest permittee

to possess roe more than 5 days after the conclusion of the harvest season without a commercial roe dealer permit.

(c) Violation of this Section is a Class A misdemeanor with a minimum mandatory fine of \$500.

(515 ILCS 5/20-92 new)

Sec. 20-92. Commercial roe dealer permit.

(a) Any resident wholesale aquatic life dealer who buys, sells, or ships roe from roe-bearing species, whether from the waters within or without the State, must annually procure a commercial roe dealer permit from the Department in addition to an aquatic life dealers permit. The annual fee for a commercial roe dealer permit is \$500 for resident wholesale aquatic life dealers and \$1,500 for non-resident aquatic life dealers. All commercial roe dealer permits shall expire on May 31 of each year.

(b) Legally licensed commercial roe dealer permit holders may designate up to 2 employees on their commercial roe dealer permit. Employees designated on a commercial roe dealer permit must retain a copy of this permit in their possession while transporting roe bearing fishes either whole or in part.

(c) A violation of this Section is a Class A misdemeanor with a minimum mandatory fine of \$500.

(515 ILCS 5/20-125) (from Ch. 56, par. 20-125)

Sec. 20-125. Records; reports; receipts ~~Receipts.~~

(a) Any person engaged in the buying, selling, or shipping of aquatic life in the State, under Sections 20-70, 20-75, 20-80, 20-91, and 20-92 of this Act, shall maintain the following minimum records:

(1) the name and address of the buyer;

(2) the name and address of the seller;

(3) the date of the transaction;

(4) the species and quantity to the nearest half pound, if applicable, or number of whole species bought, sold, or shipped; and

(5) the license or permit number of the buyer and seller, if applicable.

Reports must be submitted to the Department on forms furnished for that purpose by the Department and at intervals prescribed by the Department by administrative rule. Failure to submit reports as required is grounds for license suspension or revocation.

(b) All aquatic life dealers, including but not limited to minnow dealers, fish dealers, commercial roe dealers, mussel dealers, and breeders, shall, upon purchasing or receiving any aquatic life protected by this Code, issue a numbered receipt to the commercial fisherman, musselor, dealer, breeder, or other person from whom the aquatic life was purchased, setting forth the number of pounds and kinds of aquatic life, the date of purchase, the price paid per pound for each species, the name and address of the commercial fisherman, musselor, dealer,

breeder, or other person from whom the aquatic life was purchased, and the appropriate license number of the commercial fisherman, musselor, dealer, breeder, or other person from whom the aquatic life was purchased if applicable, and the origin of the aquatic life.

The original receipt shall be retained by the aquatic life dealer for a minimum of 2 years from the date of purchase listed on the receipt. A duplicate receipt shall be given to the commercial fisherman, musselor, dealer, breeder, or other person from whom the aquatic life was purchased at the time of purchase.

(c) All receipts, reports, and records required by the Department in subsections (a) and (b) shall be available for inspection by any authorized employee of the Department or any other peace officer upon request. Failure to comply with the provisions of this subsection (c) ~~Section~~ shall bar the licensee from obtaining a permit or license for aquatic life purchasing for the following year. Any person who violates any of the provisions of this subsection (c) ~~Section~~ shall be guilty of a Class B misdemeanor.

(d) It is unlawful to falsify any information or record or to provide fraudulent information or records to the Department. Violation of this subsection (d) is a Class A misdemeanor.

(Source: P.A. 87-833.)

Public Act 095-0147

HB1833 Enrolled

LRB095 11061 CMK 31385 b

Section 10. The Fish and Aquatic Life Code is amended by repealing Section 15-150.

Section 99. Effective date. This Act takes effect upon becoming law.