

Senate Bill 464

By: Senators Ligon, Jr. of the 3rd and Jackson of the 2nd

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Part 2 of Article 4 of Chapter 4 of Title 27 of the Official Code of Georgia
2 Annotated, relating to crabs, so as to limit the number of commercial crabbing licenses
3 issued; to provide for the requirement of a court document when transferring a commercial
4 crabbing licenses upon a death; to provide for the sale of commercial crabbing licenses in
5 certain instances; to provide for specific penalties for the unlawful taking of crabs from the
6 traps of another; to provide for related matters; to repeal conflicting laws; and for other
7 purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

10 Part 2 of Article 4 of Chapter 4 of Title 27 of the Official Code of Georgia Annotated,
11 relating to crabs, is amended by revising subsection (e) of Code Section 27-4-150, relating
12 to taking, possessing, and dealing in crabs and peelers, as follows:

13 ~~"(e)(1) The department shall begin issuing commercial crabbing licenses on April 1,~~
14 ~~1995; provided, however, that until July 1, 1998, only a person who was in possession~~
15 ~~of a valid 1994-1995 license year commercial fishing license, who was listed as an owner~~
16 ~~or a captain on a valid 1993-1994 or 1994-1995 nontrawler commercial fishing boat~~
17 ~~license, and who can provide evidence satisfactory to the department that he or she~~
18 ~~commercially sold crabs ex-vessel during either the 1993-1994 or 1994-1995 license~~
19 ~~years shall be eligible to be issued a commercial crabbing license; provided, further, that~~
20 ~~the department may, in its discretion, issue a commercial crabbing license to a person~~
21 ~~who produces documentation satisfactory to the department that he or she, because of~~
22 ~~hardship, was unable to obtain a commercial fishing license during the 1994-1995~~
23 ~~licensing year. A license issued pursuant to this paragraph shall be nontransferable and~~
24 ~~shall be issued annually for the fee specified in Code Section 27-2-23.~~

25 ~~(2) Except as provided in Code Section 27-4-133, from April 1, 1995, only a person in~~
26 ~~possession of a valid commercial crabbing license may operate a commercial fishing boat~~

27 for the purpose of commercial crabbing activities as provided for in subsections (b) and
 28 (c) of this Code section. Such license shall be distinct from and in addition to the
 29 commercial fishing boat license required by Code Section 27-2-8.

30 ~~(3) On and after July 1, 1998, only those persons who were in possession of a~~
 31 ~~commercial crabbing license and were listed as the owner or captain on a nontrawler~~
 32 ~~commercial fishing boat license in two of the three license years from the 1995-1996~~
 33 ~~license year through the 1997-1998 license year and can provide evidence satisfactory to~~
 34 ~~the department that he or she sold crabs ex-vessel during the time he or she was so~~
 35 ~~licensed shall be eligible to be issued a commercial crabbing license. Any person~~
 36 ~~desiring a commercial crabbing license for the 1998-1999 license year must make~~
 37 ~~application not later than August 31, 1998.~~

38 ~~(4)~~(2) On and after May 1, 2013, ~~the~~ The total number of new commercial crab crabbing
 39 ~~licenses issued for license years after the 1998-1999 license year shall not exceed the~~
 40 ~~number of such licenses issued for the 1998-1999 license year~~ shall not exceed 100.
 41 Those commercial crabbing licenses issued prior to May 1, 2013, shall remain active until
 42 such time the license is not renewed. Any license which is not renewed by May 1 of any
 43 license year ~~subsequent to the 1998-1999 license year~~ shall revert to the department for
 44 reissue by lottery devised and operated by the department. No person may hold more
 45 than one license at any time.

46 ~~(5)~~(3) Commercial crab crabbing licenses may ~~not~~ be sold for consideration ~~and may~~
 47 ~~not be transferred to another person; provided, however, that such licenses may only be~~
 48 ~~transferred:~~ to any person not holding a current commercial crabbing license unless
 49 otherwise prohibited by law or regulation.

50 (4) Commercial crabbing licenses may be transferred

51 ~~(A) Without payment of the license fee to the licensee's spouse, children, lineal~~
 52 ~~descendants, siblings, or parents lineal ancestors~~ if the licensee dies or is permanently
 53 and totally disabled. An instrument of the court declaring the rightful heir or recipient
 54 may be required for transfers upon a death. For purposes of this Code section, a
 55 permanent, total disability shall be a physical or mental impairment of a total and
 56 permanent nature which prevents gainful employment and which is certified as such by
 57 the United States Department of Veterans Affairs, the Social Security Administration,
 58 Medicaid, medicare, the Railroad Retirement System, or a unit of federal, state, or local
 59 government recognized by the board by rule or regulation. The transferee of a license
 60 so transferred shall engage in commercial crabbing as evidenced by his or her
 61 commercial crab harvest records within two years after such transfer or the license shall
 62 revert to the department for reissue as provided in paragraph ~~(4)~~(2) of this subsection;
 63 or.

64 ~~(B) With payment to the department of the license fee to any person who is the bona~~
 65 ~~fide purchaser of the nontrawler boat or vessel the licensee used for crabbing and~~
 66 ~~designated for such purpose as provided in subsection (e) of Code Section 27-4-151.~~
 67 (6) Any person receiving a commercial crab crabbing license by transfer as provided in
 68 ~~subparagraphs (A) and (B) of paragraph (5) of this subsection~~ shall register such transfer
 69 with the department and pay to the department the license fee, if so required, within 30
 70 days following the date of the transfer."

71 **SECTION 2.**

72 Said part is further amended by revising subsection (d) and paragraph (3) of subsection (g)
 73 of Code Section 27-4-151, relating to the use of crab traps, as follows:

74 "(d)(1) When the float of a commercial crab trap has been identified as provided in this
 75 Code section, it shall be unlawful for any person, other than the licensed commercial crab
 76 fisherman or a sole individual licensed as required in subsection (b) of Code Section
 77 27-4-150 and carrying on his or her person written permission from the licensed
 78 commercial crab fisherman if the department has been previously notified in writing of
 79 such permission, to pull such trap or to take crabs from such trap or intentionally to
 80 damage, destroy, remove from the water any crab trap or float thereof, or to use such a
 81 float for any purpose. It shall also be unlawful for any person to use such a float for any
 82 purpose other than to mark a submerged crab trap. For purposes of determining the
 83 number of crab traps a person is employing, it shall be conclusively presumed that a crab
 84 trap is tethered to each such float.

85 (2) In addition to the penalty provided by Code Section 27-1-38, any person convicted
 86 of violating the provisions of this subsection shall be penalized as follows:

87 (A) On a first offense, his or her crabbing license shall be suspended for a period of
 88 three months, during which time the person shall be ineligible to apply for a new
 89 license and upon the completion of which he or she may renew the license;

90 (B) On a second offense, his or her crabbing license shall be suspended for a period of
 91 six months, during which time the person shall be ineligible to apply for a new license
 92 and upon the completion of which he or she may renew the license; and

93 (C) On a third or any subsequent offense, his or her crabbing license shall be
 94 permanently revoked and the person shall be prohibited from purchasing a license in
 95 the future."

96 "(3) Any person violating the provisions of paragraph (1) or (2) of this subsection shall
 97 be guilty of a misdemeanor of a high and aggravated nature and, upon conviction, shall
 98 be punished by a fine of not more than \$2,000.00 or incarceration for not longer than one
 99 year or both. In addition to such criminal penalty, any person found guilty of employing

100 more than the permitted number of crab traps shall pay a civil fine of \$100.00 for each
101 excess trap. In addition to such criminal and civil penalties, the license of any person
102 found guilty of employing more than 50 excess crab traps shall be suspended for one
103 year, during which time the person shall be ineligible to apply for a new license and upon
104 the completion of which he or she may renew the license. Upon a second or subsequent
105 such offense, the person's license shall be revoked for one year, and at the end of that
106 time such person must apply for a new license as if he or she had never before been in
107 possession of a license; provided, however, that such individual shall not be eligible to
108 receive a license through transfer pursuant to paragraph ~~(5)~~ (3) or (4) of subsection (e)
109 of Code Section 27-4-150."

110 **SECTION 3.**

111 All laws and parts of laws in conflict with this Act are repealed.