

Summary of Wholesale and Bait Dealer Laws

2014-2015

This document is a legal reference to regulations, not to supersede knowledge of the pertinent laws.

License Requirements: [Section 50-5-355, Section 50-5-360, Section 50-5-360 (B), Section 50-5-360 (C)]

	<u>Resident</u>	<u>Non-Resident</u>
Bait Dealer Each location requires a separate license	\$25.00	\$125.00
Wholesale Dealer Each location requires a separate license	\$100.00	\$500.00
Peeler Crab License Must have Wholesale Dealer License	\$75.00	\$375.00
Shellfish Dealer Must have Wholesale Dealer License	\$10.00	\$50.00

Bait dealer licenses; fees; inspections; penalties.

The Department may inspect the business premises or floating equipment, or both, of a person applying for a bait dealer license and of a licensed bait dealer engaged in harvesting and selling bait.

[Section 50-5-355 (A)]

A licensed bait dealer who only sells fish or fishery products to be used solely as bait does not have to acquire a wholesale seafood dealer license. **[Section 50-5-355 (B)]**

Lawful and unlawful taking of shrimp;

It is unlawful to catch or take shrimp by any means for commercial purposes outside the General Trawling Zone or outside the legal channel net zones as established by the department, other than for sale as live bait, or in or near any waters or bottoms which have been baited by placing, depositing, or scattering any material to attract or lure shrimp toward the bait or to cause shrimp to congregate in the area where the bait is placed. Furthermore, it is unlawful to take or attempt to take shrimp by the use of a shrimp trap or shrimp pot. **[Section 50-5-1100(A)]**

Bait Dealer Harvesting live shrimp;

Any bait dealer harvesting live shrimp to be sold as bait:

- (1) must have in possession a valid bait dealer license;
- (2) must have a live bait tank or bait tanks aboard the harvesting vessel with a compatible aeration system;
- (3) may not have dead shrimp aboard; and
- (4) must be certified by the department as a bona fide bait dealer. The department may annually certify bona fide bait dealers, and this department certification must be in writing and must be in the bait dealer's possession at all times when harvesting live shrimp for bait or while in possession of live shrimp to be sold as bait. For purposes of certification the department may inspect the business premises and floating equipment of a person engaged in harvesting and selling shrimp to be used as bait. **[Section 50-5-1105 (D)]**

Wholesale seafood dealer, peeler crab, and molluscan shellfish licenses; display of license; roadside vendors; brood stock exception; penalties.

Except as provided in subsection (G), a person or entity who buys, receives or handles any live or fresh saltwater fish or any saltwater fishery products taken or landed in this State and packs, processes, ships, consigns, or sells such items at other than retail, and not solely for bait must first obtain a wholesale seafood dealer license. **A person who buys or receives such products solely from licensed seafood dealers is not required to obtain a wholesale seafood dealer license.** Each location at which products are to be packed, shipped, consigned, or bought, or to be sold at wholesale must be a permanent, non-mobile establishment, and must be separately licensed. **[Section 50-5-360 (A)]**

In order to engage in shedding peeler crabs, a person or entity must first be a licensed wholesale seafood dealer and be licensed for peeler crabs. Persons holding this license and engaged in shedding peeler crabs are authorized to receive, possess, and sell peeler crabs regardless of size. **[Section 50-5-360 (B)]**

A person or entity required to obtain a wholesale seafood dealer license who receives molluscan shellfish must first be licensed for molluscan shellfish. **[Section 50-5-360 (C)]**

Any licensed wholesale seafood dealer who buys or sells molluscan shellfish must first be certified by SC Department of Health and Environmental Control (843-953-0150) before they can purchase or sell shellfish.

The original or a legible copy of the wholesale dealer license must be displayed where a wholesale seafood dealer or his agent is selling or offering for sale saltwater fishery products. **[Section 50-5-360 (E)]**

Roadside vendors, transient dealers, or peddlers operating from vehicles, roadside stands, or other temporary locations who sell or offer for sale saltwater fishery products are retail dealers who must comply with the retail license and tax requirements of state and local law. The person or entity must be a licensed wholesale seafood dealer or must have received or purchased the products from licensed wholesale seafood dealers or other licensed retailers and must comply with the requirements of Section 50-5-375 (A). **[Section 50-5-360 (F)]**

A person or entity that solely produces fish or fishery products reared as offspring from brood stock in captivity, or purchases such fish or fishery products solely is not required to have a wholesale seafood dealer license. **[Section 50-5-360 (G)]**

Licensing requirements applicable to sale or transportation of live or fresh fish or saltwater fishery products; penalties.

A person or entity who:

- (1) offers for sale any live or fresh fish or any saltwater fishery products, other than a licensed commercial saltwater fisherman licensed as a wholesale seafood dealer; or
- (2) transports live or fresh fish or any saltwater fishery products, other than a licensed commercial saltwater fisherman transporting his catch to a licensed wholesale seafood dealer; must have in his possession dated bills of lading, invoices, receipts, bills of sale, or similar documents showing the quantity of each species and type of saltwater fishery product being offered for sale or transported and

the name of the licensed commercial saltwater fisherman or licensed wholesale seafood dealer from whom the products were purchased or received. **[Section 50-5-365 (A)]**

A person or entity including a licensed commercial saltwater fisherman who takes saltwater fishery products and sells the catch must sell the catch only to a wholesale seafood dealer licensed under this section or else he must be licensed as a wholesale seafood dealer under this section. **[Section 50-5-365 (B)]**

Without having obtained a valid wholesale seafood dealer license it is unlawful to:

- (1) buy or receive at other than retail live or fresh fish or any saltwater fishery products taken or landed in this State;
- (2) sell or offer fish or products for sale at other than retail or as allowed in subsection (B); or
- (3) transfer, ship, pack, or consign fish or products. **[Section 50-5-365 (C)]**

It is unlawful to purchase live or fresh fish or any saltwater products taken or landed in this State at other than retail from a person other than a licensed wholesale seafood dealer, provided: The fish or product may be purchased for use as bait from a licensed bait dealer; and A licensed wholesale seafood dealer may purchase from a licensed commercial saltwater fisherman. **[Section 50-5-365(D)]**

It is unlawful for a person or entity to sell or offer for sale live or fresh fish or any saltwater fishery products or to transport live or fresh fish or any saltwater fishery products without having in possession dated bills of lading, invoices, receipts, bill of sale, or similar documents showing the quantity of each species and type of saltwater fishery products to be sold or transported and the name of the licensed commercial saltwater fisherman or licensed wholesale seafood dealer whom the products were purchased or received. As it relates to operation of a vessel or vehicle, this subsection does not apply to a licensed commercial saltwater fisherman transporting his catch to a licensed seafood dealer. **[Section 50-5-365 (E)]**

Purchase or removal from State for commercial purpose of saltwater fishery products not handled by licensed wholesale seafood dealer; penalty.

It is unlawful for a person not licensed as a wholesale seafood dealer to purchase, handle, barter, or trade saltwater fishery products taken, landed, produced or cultured in this State unless first handled by a licensed wholesale seafood dealer. This section does not apply to persons receiving live bait from a licensed live bait dealer. **[Section 50-5-370 (A)]**

No person may remove from this State for a commercial purpose any saltwater fish or fishery products taken, landed, produced or cultured in this State unless the fish or product is accompanied by original, dated bills of lading, invoices, receipts, bills of sale, or similar documents showing the quantity of each type of saltwater fish or fishery product being transported and the name of the licensed wholesale seafood dealer or retail establishment from whom the products were purchased or received. **[Section 50-5-370 (B)]**

Records of seafood dealers; inspection by department; penalties.

Every wholesale seafood dealer must keep and retain accurate records detailing the information required by the department for a period of not less than one year and shall open the records to the department for inspection upon reasonable demand. **[Section 50-5-375 (A)]**

Information or report by licensee or permittee to take saltwater fishery product for commercial or scientific purpose; confidentiality; penalties.

A person or entity licensed or permitted by the Department engaged in the take, distribution, or propagation of any saltwater fishery product for a commercial or scientific purpose must keep accurate records and may be required to provide accurate information and reports to the Department on forms and by methods required by the Department for the administration and enforcement of saltwater fishery laws and for fisheries management purposes. The Department has concurrent authority with the United States to collect or require the submission of pertinent data specified pursuant to the federal Fishery Conservation and Management Act of 1976, as amended. Any information which directly or indirectly discloses the identity of a licensee or permittee or income amounts or trade secrets or other specialized methodologies for growing or taking or marketing saltwater fisheries products is not public information. Information on fisheries furnished by any source which is required by a state or federal law to be kept confidential is not subject to disclosure except when required by order of a court of competent jurisdiction. **[Section 50-5-380 (A)]**

Noncommercial information provided voluntarily to the Department in support of a resource or management activity is likewise confidential. Nothing in this section may be construed as to limit the use of such information in enforcement of this chapter. **[Section 50-5-380 (B)]**

The Department shall collect and analyze data pertinent to protection, propagation, promotion and management of marine resources. **[Section 50-5-380 (D)]**

Expiration of licenses and permits.

Licenses authorized under this article expire on June 30th following their effective date. Permits expire under the terms of individual permit. **[Section 50-5-385]**

Denial of or limitations on nonresident licenses.

The Department may deny issuance of any license or permit for commercial fishing equipment or activities to residents of any coastal state which denies the same privilege to South Carolina residents. The Department may limit the type of fishing equipment used, seasons, and areas where nonresidents may fish in accordance with comparable limitations placed upon South Carolina fishermen by the nonresident's state. **[Section 50-5-390]**

Persons who may not obtain or hold shrimp baiting license; penalty.

The following may not obtain or attempt to obtain a shrimp baiting license: any person who, or officer of a corporation which, is licensed as a wholesale seafood dealer. **[Section 50-5-1102 (A) (5)]**

No person holding a shrimp baiting license may be a person specified in subsection (A). **[Section 50-5-1102 (B)]**

A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars nor more than one thousand dollars or imprisoned for not more than thirty days. **[Section 50-5-1102 (C)]**

State licensed wholesale seafood dealers who are engaged in handling or purchasing federally managed Atlantic Highly Migratory Species such as Tunas, Swordfish, or Sharks; or species federally managed by Southeast Regional Office such as Snapper-Grouper, Dolphin/ Wahoo, Rock Shrimp and Golden Crab must obtain the appropriate federal dealer permit for the fishery or fisheries in which they are engaged.

For Atlantic Tunas Dealer permits contact NMFS Northeast Regional Permit Office at (978) 281-9370 or www.nero.noaa.gov/.

For Shark Dealer permits, Domestic Swordfish Dealer permits, South Atlantic Snapper-Grouper Dealer permits, Atlantic Dolphin/Wahoo Dealer permits, South Atlantic Wreckfish Dealer permits, South Atlantic Rock Shrimp Dealer permits, and South Atlantic Golden Crab Dealer permits contact NMFS Southeast Regional Permit Office at (727) 824- 5326 or <http://sero.nmfs.noaa.gov/>.

Wholesale/ Bait Dealer Reporting Requirements

- 1) All licensed wholesale seafood dealers must submit a trip ticket for each trip/transaction and a submittal/transaction form for each package of trip tickets submitted to the Marine Resources Division's Fisheries Statistics Program, P.O. Box 12559, Charleston, SC 29422-2559 on a monthly basis.**
- 2) Trip tickets must be received by the 10th of the following month. If no landings occurred in a given month, a submittal/transaction form must be submitted indicating "No Business".**
- 3) Trip tickets are required to be complete and accurate. Mandatory items (i.e. areas highlighted in gray) must be filled out, some of which will require information to be obtained directly from the commercial fishermen selling the seafood product.**
- 4) Trip ticket books (with more detailed instructions) for all commercial fisheries can be picked up from Room 215 in the Administrative Building at the Marine Resources Center on James Island, or can be mailed to license holders. For further information or questions, please call the Fisheries Statistics Program at 843-953-9313.**
- 5) All licensed bait dealers will be required to report beginning January 2015. The Department will contact bait dealers and provide forms. Reports must be submitted to the department monthly by the tenth day of the following month. If no landings occurred in a given month, a submittal/transaction form must be submitted indicating "No Business".**

If your license/ permit is suspended or revoked, you are entitled to an administrative appeal pursuant to the South Carolina Administrative Procedures Act. The review must be scheduled by the Administrative Law Court in accordance with the division's procedural rules. The scope of the hearing is limited to the issues set out by the Administrative Procedures Act and the division's procedural rules. Appeals must be filed and served within 30 days of suspension/ revocation notice with the Clerk of Court of Administrative Law Court 1205 Pendleton Street Suite 224 Columbia, SC 29201, telephone (803)734-0660.