

AN ACT concerning fish and aquatic life.

**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 1-55, 1-125, 10-100, 20-35, and 20-70 and by adding Section 1-53 as follows:

(515 ILCS 5/1-53 new)

Sec. 1-53. Indigenous species. "Indigenous species" means those species of aquatic life specified by administrative rule.

(515 ILCS 5/1-55) (from Ch. 56, par. 1-55)

Sec. 1-55. Minnow. "Minnow" means any fish in the family Cyprinidae except common carp (Cyprinus carpio), and goldfish (Carassius auratus), and Asian carp [bighead carp (Hypophthalmichthys nobilis), black carp (Mylopharyngodon piceus), grass carp (Ctenopharyngodon idella), and silver carp (Hypophthalmichthys molotrix)].

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

(515 ILCS 5/1-125) (from Ch. 56, par. 1-125)

Sec. 1-125. Administrative rules. The Department is authorized to issue administrative rules for carrying out, administering, and enforcing the provisions of this Code. The administrative rules shall be promulgated in accordance with the Illinois Administrative Procedure Act.

Rules, after becoming effective, shall be enforced in the same manner as are any other provisions of this Code. It is unlawful for any person to violate any provision of any administrative rule promulgated by the Department. Violators of administrative rules are subject to the penalties set out in this Code.

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

(515 ILCS 5/10-100) (from Ch. 56, par. 10-100)

Sec. 10-100. Release of aquatic life.

(a) It shall be unlawful to release any aquatic life into the wild in waters of this State without first securing permission of the Department to do so, except that the owner of a body of water may release aquatic life indigenous to the State of Illinois into waters wholly upon his or her property ~~that are indigenous to the State of Illinois~~. The Department shall have the authority to promulgate necessary rules and regulations, under the Illinois Administrative Procedure Act, regulating the possession, transportation, and shipping of aquatic life not indigenous to the State of Illinois. All aquatic life may be immediately returned unharmed ~~released into waters~~ from where ~~which~~ they were taken.

(b) It is unlawful to possess, transport, or release any live specimen or viable gametes of any species listed as injurious by administrative rule, unless authorized by that rule. A violation of this subsection (b) is a Class A misdemeanor.

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

(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 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, 15-45, 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, 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, or 20-120 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.

(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. 92-385, eff. 8-16-01; 92-513, eff. 6-1-02; 92-651, eff. 7-11-02.)

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

Sec. 20-70. Non-resident and resident aquatic life ~~fish~~ dealers. Non-resident and resident aquatic life ~~fish~~ 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 ~~fish~~ 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 ~~fish~~ dealer within the meaning of this Code.

All licenses issued to non-resident aquatic life ~~fish~~ 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 ~~fish~~ 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 ~~fish~~ dealer's license shall be \$100. All non-resident aquatic life ~~fish~~ dealer licenses shall expire on January 31 of each year.

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

(b) Resident aquatic life ~~fish~~ 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 ~~person~~ selling fish legally caught or taken by themselves to a resident licensed wholesale aquatic life fish dealer, however, is exempt from the provisions of this Section.

(1) Wholesale aquatic life fish 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 ~~indigenous to this State (except minnows)~~ and protected by this Code, whether from waters within or without the State, is a resident wholesale aquatic life fish 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 fish dealers are valid only in the location described and designated in the application for license. Wholesale aquatic life fish 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 fish 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 fish dealer's license is \$50. All wholesale aquatic life fish dealer's licenses shall expire on January 31 of each year.

(2) Retail aquatic life fish 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 ~~indigenous to this State (except minnows)~~ and protected by this Code, whether from waters from within or without the State, is a retail aquatic life ~~fish~~ 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 ~~fish~~ 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 ~~fish~~ 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 ~~fish~~ 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 ~~fish~~ 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. 89-66, eff. 1-1-96.)