

Summary of Commercial Mudminnow Laws

2018-2019

This document should be kept on board all vessels engaged in commercial mudminnow fishing as a legal reference, not to supersede knowledge of the pertinent laws. Complete laws can be found at

www.scstatehouse.gov.

License Requirements: [Section 50-5-355 (A), Section 50-5-325 (A)(2)]

	<u>Resident</u>	<u>Non-Resident</u>
Bait Dealer License	\$25.00	\$125.00
Minnow Traps (up to 50)	\$25.00	\$125.00
Each additional trap	\$1.00	\$5.00

Definitions:

“Minnow trap” means a trap having no opening which as a dimension greater than one inch only when used for taking small finfish for bait. **[Section 50-5-15 (34)]**

Minnow traps for commercial purposes.

A person may use lawful minnow traps to take fish for a commercial purpose for use as bait without a commercial saltwater fishing license. **[Section 50-5-330 (C)]**

Display of licenses, permits, and vessel's identification decal; transfer of licenses; penalty.

While exercising the privilege of a license or permit the licensee, operator, or permittee must display or keep on his person the license or permit, and the license or permit must be produced on demand of department personnel or other law enforcement personnel. **[Section 50-5-350 (A)]**

Bait dealer licenses; fees; inspections; penalties.

For the privilege of taking or landing any saltwater species to be sold, bartered, or traded as bait or offered for sale as bait or selling or offering for sale as bait any saltwater species taken or landed in this State, a resident must first acquire a bait dealer license for twenty-five dollars. A nonresident must acquire a bait dealer license for one hundred twenty-five dollars. 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. A person who takes, attempts to take, sells, or offers for sale any saltwater fish or fishery product for bait, except maricultured fish or fishery product in violation of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty-five dollars nor more than five hundred dollars or imprisoned for not more than thirty days. **[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)]**

Information or report by license or permittee to take saltwater fishery product for commercial or scientific purpose.

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)]**

A person or entity licensed or permitted under this chapter who fails to make an accurate and timely report as required by the department is guilty of a misdemeanor and, upon conviction, the person must be fined not less than twenty-five dollars nor more than two hundred dollars or imprisoned for not more than thirty days for each report, and the department must suspend the license or permit under which the report is required until accurate and complete reports are submitted to the department. Each delinquent or inaccurate report must be handled as a separate offense. The provisions of this section do not supersede or replace any criminal sanctions for defrauding or attempting to defraud this State. **[Section 50-5-380 (C)]**

Trap buoy size, material, catch release feature and identification tag or other identifying information requirements; seizure of unmarked traps.

Minnow traps used for commercial purposes must utilize floats no smaller than five inches marked with the operator's name. **[Section 50-5-550 (A)]**

The department may require that each trap set in the salt waters of this State have catch release features and identification tags designated by the department. **[Section 50-5-550 (B)]**

A trap not marked in accordance with this section is contraband and must be seized and disposed of as provided in this chapter. **[Section 50-5-550 (E)]**

Trap placement and attention requirements; department inspection, removal, seizure, and disposal. No trap may be placed within six hundred feet of a public boat ramp or launching area. **[Section 50-5-555 (A)]**

No trap may be set so as to leave any portion of the trap dry at any stage of the tide. **[Section 50-5-555 (B)]**

No trap may be unattended for more than five days. Without having written permission of the owner, no person may retrieve or remove catch from any trap the buoy of which is marked with a number assigned by the department to another person. **[Section 50-5-555 (C)]**

No trap may be set so as to obstruct navigation in any creek or other navigable water course, access point, or mooring point. A trap determined by the department to be in violation of this section may be removed by the department and disposed of as provided in this chapter. **[Section 50-5-555 (D)]**

The department may inspect traps for compliance with this section at any time. If the department finds any trap:

- (1) set in violation of this section;

- (2) containing excessive dead catch or only dead catch; or
- (3) with buoy, line, or trap displaying excessive marine growth, the trap is contraband and must be seized and disposed of as provided in this chapter . **[Section 50-5-555 (E)]**

* If you no longer need your license please be sure to surrender it to the Commercial License office in Charleston (PO Box 12559 Charleston, SC 29422). If you have questions about surrendering your license please call (843)953-9311.

As required by S.C. Code Section 8-29-10, applicants for a commercial license or permit are required to complete an affidavit entitled "Verification of Lawful Presence in the United States" certifying that the applicant is lawfully in the United States. The affidavit MUST be completed, notarized and returned with the application. If you are a US citizen, the properly filled out affidavit is all that is required. If you are not a US citizen, you will be required to provide documentation, which is subject to verification with the Department of Homeland Security. Specific types of documentation that may be provided can be found on Page 2 of the form, under "Accepted Immigration Documents." Your application for a commercial license or permit will be returned if the affidavit and documentation is not received and notarized. If your license/ permit is in a company name the owner/responsible party for the company must complete the affidavit and indicate the business information on the bottom right of the form. The affidavit only needs to be completed once if you are a U.S. Citizen 18 years of age or older, all others will be required to resubmit the affidavit each time an individual applies for a commercial license or permit from the Department.

If you are convicted for an offense, there may be points assessed against your license or your privileges may be suspended if the statute requires it. Upon an accumulation of eighteen (18) or more points, the privileges of that license will be suspended for one year. Points and violations can be found in the SCDNR Rules and Regulations book or SC Code of Laws 50-5-2500(A).

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.