

1978 WL 34659 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

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Wildlife and Marine Resources Department

QUESTION:

Can a seine less than forty feet in length placed in the salt water creeks and channels of South Carolina, but not extending more than half-way across such waterways be considered a 'channel net' as defined in Wildlife and Marine Resources Division Rule 123-20, and therefore be subject to the licensing provisions of [Section 50-17-360\(1\), 1976 Code](#)?

STATUTES AND RULES:

[Section 50-17-360\(1\), 1976 Code of Laws of South Carolina](#);

[Section 50-17-370, 1976 Code of Laws of South Carolina](#);

[Section 50-17-1030, 1976 Code of Laws of South Carolina](#);

Wildlife and Marine Resources Division Rule 123-20, 1976 Code of Laws of South Carolina.

DISCUSSION:

Rule (hereinafter R) 123-20 promulgated by the Wildlife and Marine Resources Department requires that a license and permit be obtained from the Marine Resources Division prior to using a 'channel net.' 'Channel net' is defined in R. 123-20 as a 'conical bag shaped net similar in design to a travel net . . . which is attached to poles, stakes, buoys or other fixed objects in sound area.'

The net in question is 'attached to poles, stakes, [etc].' It is not over forty feet in length, and does not stretch more than halfway across the channel, and, therefore is not in violation of either [Sections 50-17-370](#) or [50-17-1030](#), respectively. The question is whether it can be considered a 'conical bag shaped net similar in design to a travel net.'

The purpose of R. 123-20 is to provide for the conservation of shrimp and other small fish likely to be caught in channel nets. This is done through the licensing requirements.

When the licensing requirements were made, apparently an 'ordinary' seine was not believed to be likely enough to entrap a sufficient number of shrimp or other small fish to pose a danger to conservation efforts. Therefore, no license was required. [Section 50-17-370](#) provides that nets of less than forty feet in length used for catching shrimp for bait or for family consumption are exempt from license taxes. As described, the net in this case is an 'ordinary' seine and is not a 'conical bag shaped net' and is therefore exempt from licensing requirements.

CONCLUSION:

A seine less than forty feet which stretches less than halfway across a channel or salt water creek, and which is attached to 'poles, stakes, buoys or other fixed objects,' but which is not conical or bag shaped, is not a 'channel net' within the definition of R. 123-20, and therefore the use of such a net would not necessitate obtaining a license or permit.

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