

1973 WL 26893 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 21, 1973

**\*1 re: Licensing shrimp trawlers.**

The Honorable James P. Harrelson  
Senator  
Senatorial District No. 15  
P. O. Drawer 732  
Walterboro, South Carolina 29488

Dear Senator Harrelson:

You have inquired whether Section 28-944, S. C. Code of Laws, as amended, requires that persons obtaining a license for shrimping boats pay seventy-five (\$75.00) dollars for each boat licensed, even in circumstances where the boat to be licensed is a replacement for another boat which, although recently licensed, has been sunk or destroyed.

Section 28-944, S. C. Code of Laws, as amended, provides:

All owners of shrimp and crab trawling boats who are residents of this State shall, before operating such boats in the waters of this State, obtain a license for the boat and pay therefor the sum of seventy-five dollars for each boat licensed.

With regard to the licensing of replacement shrimping boats two questions must be addressed. The first question is whether this section would permit a previously obtained license to be transferred to another boat. The second question is whether, if the former license cannot be transferred, may the boat owner receive any credit for the seventy-five (\$75.00) dollar fee previously paid.

Considering first the question of transferring licenses, it appears that the language of the statute doesn't address itself to that question and hence the answer lies in the intent of The Legislature in passing this law. [McGlohon v. Harlan, 254 S.C. 207, 174 S.E.2d 753 \(1970\)](#). It further appears that one of the salient purposes of this law is to permit the identification of individual boats, which would be difficult to do if licenses could be switched. It further appears that it is the boat itself which is to be licensed, and not the operator, who is covered under separate licensing provisions. See Section 28-932, S. C. Code of Laws, as amended. Accordingly, it is the opinion of this office that shrimping boat licenses may not be transferred.

The second question considers whether or not any credit may be afforded the purchaser of a shrimping boat license due to fees paid on a prior unexpired license. As to this, the language of Section 28-944, stating that the owner shall pay 'the sum of seventy-five dollars for each boat licensed, appears clear on its face and leaves no room for interpretation. [Wynn v. Doe, 255 S.C. 509, 180 S.E.2d 95 \(1971\)](#). Accordingly, it is the opinion of this office that no such credit is permitted under this law.

Finally, it is to be noted that the failure of this law to allow for a credit or refund of license fees under given circumstances does produce harsh results in individual cases. Legislation along the lines of Section 46-51, S. C. Code of Laws (1962), dealing with the refund of motor vehicle fees, would appear desirable.

With best wishes, I am  
Sincerely,

John B. Grimball

Assistant Attorney General

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