

VIRGINIA ACTS OF ASSEMBLY -- 2000 SESSION

CHAPTER 132

An Act to amend and reenact §§ 29.1-323, 29.1-327, and 29.1-330 through 29.1-335 of the Code of Virginia, relating to electronic point-of-sale licensing.

[H 896]

Approved March 17, 2000

Be it enacted by the General Assembly of Virginia:

1. That §§ 29.1-323, 29.1-327, and 29.1-330 through 29.1-335 of the Code of Virginia are amended and reenacted as follows:

§ 29.1-323. By whom licenses issued.

The clerks of the circuit courts of cities, and such agents *operating in Virginia cities* as the Board may designate, shall issue state and city resident licenses, and county licenses for those counties contiguous to their respective cities. The clerks of the circuit courts of counties, and such agents *operating in Virginia counties* as the Board may designate, shall issue state licenses and county licenses for their respective counties. *Agents, designated by the Board, who operate outside of Virginia, shall issue state licenses and such Virginia county or city licenses as agreed upon by the agent and the Department.* Licenses shall be issued as provided for in this title, and clerks and agents shall date and ~~sign~~ *authenticate* the licenses *in a manner prescribed by the Board*. Any clerk who desires to be relieved of this duty shall notify the Board in writing and may be relieved when the Board has designated an agent to sell licenses in his county or city.

§ 29.1-327. Agents for sale of licenses and permits; sales by telephone and electronic media.

A. The Board shall have authority to appoint agents ~~in counties, cities and towns~~ *operating in and outside of Virginia* for the issuance and sale of any or all of the permits and licenses provided for in this title. Those agents appointed shall be in addition to the clerks of the courts designated by § 29.1-323 and shall be chosen so as to best serve the public from the standpoint of geographic location and method of operation. Such agents *operating in and outside of Virginia* shall be subject to the laws and the rules and regulations of the Board covering the issuance and sale of licenses and permits. Rules and regulations promulgated by the Board shall be designed to ensure that agents provide adequate service to the public and shall include provisions for removing agents not performing their duties properly. *Any contract between the Department and any agent operating outside of Virginia shall stipulate that application and construction of the contract is governed by the laws of Virginia.* Before an agent's appointment becomes effective, the agent shall be bonded by a surety company entitled to do business in this Commonwealth in the penalty of ~~\$1,000, or~~ such ~~additional~~ amount as the Board may require, payable to the Commonwealth and conditioned upon the faithful performance of the agent's duties.

~~At least annually, or at~~ such intervals as the Board may decide to be proper, the Board shall informally investigate the performance of agents appointed pursuant to this section to determine whether such agents are performing their duties in the public interest as provided by law and shall take any action deemed necessary to provide the best service in the public interest.

B. The Board may make and enter into agency contracts whereby the agent, *whether operating in or outside of Virginia*, may sell hunting and fishing licenses, issued under this title, by telephone, *the Internet, or other electronic or computerized means*. The contract shall establish the cost the agent may charge and receive per transaction which shall be in addition to the actual cost of the license sold during the transaction. A telephone *or electronic media* agent shall ~~not receive any additional fee per license sold during a telephone transaction nor shall he retain~~ as compensation the fee ~~fees~~ for which he contracted with the Board and as determined and provided for in § 29.1-332. ~~The sale of one or more licenses to one applicant during one telephone call shall constitute a single transaction.~~ A telephone *or electronic media* agent shall follow the rules and regulations established by the Board that apply to other agents, if such requirements are not provided for in the provisions of the contract.

§ 29.1-330. Delivery to clerk or agent; return of unused annually expiring materials and unsold licenses.

The Director shall send to each clerk or agent before the first day of the license year as many *annually expiring licensing materials and* licenses as he may deem necessary and shall hold each accountable for the *amount and* number sent. Clerks and agents shall, within ten days after the end of the license year, return to the Director all *unused annually expiring licensing materials*, unsold licenses and the stubs of licenses sold. All *annually expiring licensing materials and* serially numbered licenses shall be accounted for by the Director. *For licensing conducted by telephone or electronic media, the Director shall determine what additional equipment and nonannually expiring licensing materials are required by the clerks or agents, and he shall make available such equipment and materials to agents*

according to a schedule he deems appropriate.

§ 29.1-331. Licenses to be dated, numbered and authenticated.

All licenses shall be dated, numbered, and ~~signed~~ *authenticated* by the clerk or agent by *his signature or in such other manner as prescribed by the Director*, and, ~~besides showing the clerk or agent shall show all other information required by law or the Board, shall have printed in red on the top of the face thereof in bold type equal in size to the largest type appearing thereon, the following words:~~

"See Back for Legal Restrictions of License."

On the back of the license shall be printed a concise but full statement of the law applying to persons hunting, fishing or trapping on the lands, waters, ponds, boats or blinds of another without the consent of the owner.

§ 29.1-332. License and permit receipts; compensation for issuing; sums to be credited to game protection fund.

A. Notwithstanding the provisions of § 2.1-180, the money received for licenses and permits issued under this title shall be paid by each clerk or agent to the Department for payment into the state treasury. *Payment shall be made by means prescribed by the Board and agreed to by the clerk or agent. For license sales by telephone or electronic media, the means of payment may include a continuous deposit of proceeds from the sale of licenses into accounts from which the Department may electronically transfer funds to a Departmental or state account at agreed-upon intervals. For license sales made other than by telephone or electronic media, the clerk or agent shall add fifty cents to the fee for each license or permit he issues and retain the fifty cents as compensation for such service.*

B. Upon receipt into the treasury of such sums the Comptroller shall credit the sums to the game protection fund or to the Lifetime Hunting and Fishing Endowment Fund for licenses sold pursuant to § 29.1-302.1.

§ 29.1-333. Reports to Director as to sale of licenses.

A. When remitting license and permit receipts, each clerk or agent shall make a report to the Director ~~on departmental forms~~, *in a manner prescribed by the Director*, which shall show (i) the quantity of licenses of each kind sold and the amount of gross collections for each kind of license, (ii) the amount of collections retained as compensation pursuant to § 29.1-332, (iii) the net amount remitted to the Department, and (iv) any other information that the Director may require.

B. For failure to make a report and remit the amount due within thirty days after the due date, the clerk or agent shall forfeit his compensation for issuing licenses on such report. *If an agent fails to have funds in an amount equal to the Department's records of reported license sales in any account from which remission of revenues to the Department is made by periodic electronic transfer, he shall forfeit his compensation for issuing licenses during the period covered by the transfer of the funds. For any subsequent failure to have funds equal to the Department's records of reported license sales in an account from which remission of revenues to the Department is made by periodic electronic transfer, the Director may revoke the person's status as a license agent.*

C. *For license sales made by telephone or electronic media, the reports and remittances to the Department shall be made not less than quarterly and in accordance with a schedule prescribed by the Board. For license sales made other than by telephone or electronic media, the reports and the remittances to the Department shall be made as follows:*

1. For July and August, not later than September 5.
2. For September, October, November and December, monthly, not later than the fifth of the succeeding month.
3. For January, February and March, quarterly, not later than April 5.
4. For April, May and June, quarterly, not later than July 5.

§ 29.1-334. Certificate when license lost or destroyed.

If a license, *other than a license issued by electronic means or a temporary license as described in § 29.1-335*, is lost or destroyed, the person to whom the license is issued may immediately apply to the clerk or agent who issued the license for a license certificate. Upon written statement that the license has been lost or destroyed, the clerk or agent shall issue a license certificate and endorse the number of the original license and date of issue thereon. *A temporary license that is lost or destroyed may not be replaced with a license certificate.* The fee of the clerk or agent for filing the statement and issuing a license certificate shall be twenty-five cents for agents and as prescribed in subdivision A 30 of § 17.1-275 for clerks and shall be paid by the applicant. The clerk or agent shall not be required to remit his fees for issuing license certificates. No licenses shall be redeemed or exchanged. Damaged licenses shall be ~~attached to the report of the clerk or agent, sent to~~ *returned to the Department in a manner prescribed by the Director*, and proper deductions from the gross amount shall then be made. The Department shall furnish forms of written statements and license certificates *and shall make available equipment and materials as needed or as required by this section. Replacement of any lost or destroyed license issued by electronic means should be made in a manner prescribed by the Director.*

§ 29.1-335. Hunting, trapping or fishing without a license.

No person shall hunt, trap, or fish without having obtained a license when such a license is required.

For the purposes of this article, the term "license" shall include any temporary license issued by a clerk or agent to a buyer and authorized to be used in a manner prescribed by the Director. Any person who violates this section shall be guilty of a Class 3 misdemeanor and shall pay to the clerk a fee equal to the cost of the required license to be paid into the state treasury and credited to the game protection fund.

The purchase of a license subsequent to an arrest or notice of summons to appear in court for hunting, trapping or fishing without a license shall not relieve the person from the penalties specified in this section.