

VIRGINIA ACTS OF ASSEMBLY -- 1997 SESSION

CHAPTER 703

An Act to amend and reenact § 29.1-738 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 28.2-903.1 and 29.1-554.1, relating to impeding fishing; penalty.

[H 1915]

Approved March 21, 1997

Be it enacted by the General Assembly of Virginia:

1. That § 29.1-738 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 28.2-903.1 and 29.1-554.1 as follows:

§ 28.2-903.1. Impeding lawful fishing in tidal waters; penalty.

A. It is unlawful for any person to willfully and intentionally impede the lawful fishing of any species of fish or shellfish. "Fishing" means those activities defined in § 28.2-100 as "fishing," "fisheries" or "to fish."

B. Notwithstanding any other provision of law, any person convicted of a violation of this section shall be guilty of a Class 3 misdemeanor.

§ 29.1-554.1. Impeding lawful fishing in inland waters; penalty.

A. It is unlawful for any person to willfully and intentionally impede the lawful fishing of any species of fish. "Fishing" means those activities defined in § 29.1-100 as "fishing."

B. Any person convicted of a violation of this section shall be guilty of a Class 3 misdemeanor.

§ 29.1-738. Operating boat or manipulating water skis, etc., in reckless manner or while intoxicated, etc.

A. No person shall operate any motorboat or vessel, or manipulate any skis, surfboard, or similar device, or engage in any spearfishing while skin diving or scuba diving, or engage in any other activity in or on the water in a reckless manner so as to endanger the life, limb, or property of any person or in a willful and intentional manner to impede the lawful fishing for any species of fish or shellfish. Fishing means all activities as defined in § 28.2-100 or § 29.1-100 for "fishing," "fisheries" or "to fish."

B. No person shall operate any watercraft, as defined in § 29.1-712, or motorboat which is underway (i) while such person has a blood alcohol concentration at or greater than the blood alcohol concentration at which it is unlawful to drive or operate a motor vehicle as provided in § 18.2-266 as indicated by a chemical test administered in accordance with § 29.1-738.2, (ii) while such person is under the influence of alcohol, (iii) while such person is under the influence of any narcotic drug or any other self-administered intoxicant or drug of whatsoever nature, or any combination of such drugs, to a degree which impairs his ability to operate the watercraft or motorboat safely, or (iv) while such person is under the combined influence of alcohol and any drug or drugs to a degree which impairs his ability to operate the watercraft or motorboat safely.

C. For purposes of this article, the word "operate" shall include being in actual physical control of a watercraft or motorboat and "underway" shall mean that a vessel is not at anchor, or made fast to the shore, or aground.

Any person who violates any provision of this section shall be guilty of a Class 1 misdemeanor.