

VIRGINIA ACTS OF ASSEMBLY -- 2018 SESSION

CHAPTER 118

An Act to amend and reenact §§ 28.2-226.1 and 28.2-302.5 of the Code of Virginia, relating to saltwater recreational fishing licenses; member of Indian tribe.

[H 853]

Approved March 2, 2018

Be it enacted by the General Assembly of Virginia:

1. That §§ 28.2-226.1 and 28.2-302.5 of the Code of Virginia are amended and reenacted as follows:

§ 28.2-226.1. Recreational gear license required.

A. Any person desiring to take or catch finfish or shellfish for recreational purposes in the tidal waters of the Commonwealth using commercial gear authorized under § 28.2-226.2, ~~and for which an exemption is not provided in § 28.2-226, or included in § 28.2-302.1,~~ shall first obtain the appropriate commercial gear license for recreational purposes. A license to use such gear for recreational purposes shall be issued to an individual for his exclusive use and shall not be transferable.

B. All gear licenses issued for recreational purposes shall be so marked.

C. Any person who has obtained a commercial gear license for recreational purposes only shall be exempt from the commercial fishing registration requirements of §§ 28.2-241 and 28.2-242.

D. For purposes of this section and §§ 28.2-226.2 and 28.2-232, "recreational purposes" means finfish or shellfish taken for personal use and not sold, traded, bartered, or given to another in order to be sold, traded, or bartered.

E. Holders of licenses under this section shall report catch and other data as is deemed necessary by the Commission for effective fisheries management.

F. Any person who engages in an activity for which an exemption is provided in § 28.2-226, holds a saltwater recreational fishing license and uses a gear type listed in § 28.2-302.1, or is exempt from the requirements of obtaining a saltwater recreational license pursuant to subdivision A 11 of § 28.2-302.5 shall be exempt from the requirement of obtaining a commercial gear license for recreational purposes.

§ 28.2-302.5. Exemptions to saltwater recreational fishing license.

A. The following persons shall be exempt from the requirements of obtaining a saltwater recreational fishing license as set forth in § 28.2-302.1:

1. A person under the age of ~~sixteen~~ 16 or a person who has attained the age of ~~sixty-five~~ 65.
2. A person fishing from private real property that he owns or rents, the nonpaying guest of such person, or a member of the immediate family of such person.
3. A person fishing from a licensed recreational boat licensed pursuant to § 28.2-302.7.
4. A person fishing from a licensed headboat, charterboat, or pier licensed pursuant to § 28.2-302 or § 28.2-302.8.
5. A person fishing with gear licensed by the Commission.
6. The holder of a valid recreational fishing license issued by another state or jurisdiction, upon determination of reciprocity of the license by the Commissioner.
7. Members of the following groups, as determined by the Commissioner:
 - a. Organized groups of individuals with physical or mental limitations;
 - b. Organized groups of military veterans residing in veterans' hospitals; and
 - c. School groups, grades kindergarten through ~~twelve~~ 12, participating in school-sponsored trips.
8. A permanently and totally disabled person as defined in § 58.1-3217 holding a special lifetime saltwater recreational fishing license issued pursuant to § 28.2-302.10.
9. A person holding a lifetime saltwater recreational fishing license issued pursuant to § 28.2-302.10:1.
10. A person fishing from a federally owned park or reserve with boundaries extending into an adjoining state that does not require a saltwater fishing license.
11. *A Virginia resident who is a member of an American Indian tribe recognized by the Commonwealth and is carrying (i) an identification card or paper signed by the chief of his tribe, (ii) a valid tribal identification card, (iii) a written confirmation through a central tribal registry, or (iv) a certification from a tribal office, stating that the person is a member of such tribe. Such card or other certification shall create a presumption of residence in Virginia that may be rebutted by proof of actual residence elsewhere.*

B. No saltwater recreational fishing licenses shall be required on days that are designated as free fishing days. The Commissioner shall designate no more than three free fishing days in any calendar year. This exemption shall not apply to headboats, charterboats, or rental boats.