

"PERTAINING TO FISHING GUIDES"

CHAPTER 4 VAC 20-1180-10 ET SEQ.

PREAMBLE

This chapter establishes provisions for the sale of fishing guide licenses, one of which is required for any charter boat or head boat captain.

This chapter is promulgated pursuant to authority contained in §§ 28.2-201 and 28.2-302.8 of the Code of Virginia. This chapter amends and re-adopts, as amended, previous chapter 4VAC20-1180-10 et seq., which was adopted on December 16, 2008 and made effective on December 22, 2008. The effective date of this chapter is December 1, 2009.

4 VAC 20-1180-10. Purpose.

The purpose of this chapter is to establish conditional or limited sale of fishing guide licenses for effective fishery management.

4 VAC 20-1180-20. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context indicates otherwise:

"Captain" means the person licensed by the U. S. Coast Guard to carry passengers for hire who operates the charter boat or head boat.

"Class A fishing guide license" means the license for charter boat or head boat operators that is restricted to those individuals who satisfy one of the conditions described in 4 VAC 20-1180-40 or who obtains the license through a transfer or from the waiting list described in 4VAC20-1180-50 and 4VAC20-1180-60, respectively.

"Class B fishing guide license" means the license that allows charter boat or head boat operators to fish in Virginia waters and may be obtained by anyone who is licensed by the U. S. Coast Guard to carry passengers for hire and can provide a copy of his current U. S. Coast Guard license with the application.

"Fishing guide reciprocity permit" means a cost-free permit that is required for any charter boat or head boat operator licensed as a Maryland fishing guide who fishes in Virginia waters under the Chesapeake Bay Saltwater License Reciprocity Agreement.

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4 VAC 20-1180-30. Fishing guide license; fees.

- A. Either a Class A fishing guide license or Class B fishing guide license or a fishing guide reciprocity permit shall be required for a charter boat or head boat captain operating for hire and fishing in the tidal salt waters of the Commonwealth under the jurisdiction of the Commission.
- B. The annual fee for the Class A fishing guide license or the Class B fishing guide license shall be \$100 for a resident and \$200 for a nonresident. Fishing guide reciprocity permits can be obtained at no cost provided the applicant furnishes copies of his Maryland fishing guide license and U. S. Coast Guard License.
- C. When the same applicant purchases a Class A or Class B fishing guide license prior to purchasing one charter boat or head boat license as required by § 28.2-302.8 of the Code of Virginia, the fee for that charter boat or head boat license shall be reduced by the cost of the fishing guide license.

4 VAC 20-1180-40. Limited sale of the Class A fishing guide license and conditional sale of the Class B fishing guide license.

The Commissioner has determined that the requirements for the fishing guide license in Maryland are substantially similar and reciprocal with the Class A fishing guide license, and the following provisions and qualifications shall define the administration of the Class A fishing guide license:

1. It shall be unlawful for any person to serve as the captain of a charter boat or head boat without first qualifying for and obtaining a Class A or Class B fishing guide license or a fishing guide reciprocity permit.
2. An applicant shall be considered qualified for the Class A fishing guide license once that applicant satisfies the following conditions:
 - a. The applicant shall be licensed by the U. S. Coast Guard to carry passengers for hire and shall include a copy of his current U. S. Coast Guard license with the application.
 - b. The applicant shall have purchased, as the licensee, a 2008 Virginia charter boat or head boat license before June 25, 2008, or shall have purchased, as the licensee, Virginia charter boat or head boat licenses in 2006 and 2007, or can document that he has served as captain of a vessel for at least 30 days from January 1, 2006, through June 24, 2008, operating in Virginia waters that was licensed as a Virginia charter boat or head boat and provides a

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certificate of insurance listing him as the captain of a Virginia charter boat or head boat or federal tax form W-2 or 1099, listing his income as the captain of a Virginia charter boat or head boat during the period January 1, 2006, through June 24, 2008. An additional form of documentation of the 30-day service as captain may include evidence that the applicant was enrolled during the qualifying period in a U. S. Coast Guard required random drug testing program for the business owning the qualifying vessel.

3. A Class A fishing guide licensee shall be required to purchase a Class A fishing guide license annually to maintain his eligibility to purchase a Class A fishing guide license for the following year.
4. The number of Class A fishing guide licenses sold in any one year shall not exceed the number of persons meeting the qualifications specified in this section.
5. An applicant shall be considered qualified for the Class B fishing guide license once he provides documentation that he is licensed by the U. S. Coast Guard to carry passengers for hire and can provide a copy of his current U. S. Coast Guard license with the application.

4 VAC 20-1180-50. Transfers of a Class A fishing guide license.

- A. A Class A fishing guide license may be transferred from the current licensee to another person with the approval of the Commissioner. Transfers may be temporary or permanent. A temporary transfer shall authorize the person replacing the original Class A fishing guide licensee to serve as a fishing guide from the date of the transfer to the end of the license year, and following that time period, the original Class A fishing guide licensee shall retain eligibility for a fishing guide license. A permanent transfer authorizes the person replacing the original licensee to serve as a fishing guide for as long as he continues to qualify for the license, and the original licensee shall lose his eligibility for a Class A fishing guide license in future years.
- B. No transfer of a Class A fishing guide license from a resident to a non-resident or non-resident to resident shall be approved.

4 VAC 20-1180-60. Waiting List.

- A. Effective January 1, 2009, the Commission shall create a list of applicants who have failed to qualify for the Class A fishing guide license. Persons may be placed upon the list in the order of receipt of their application, except that any person who cannot document that he is currently licensed by the U. S. Coast Guard to carry passengers for hire shall not be placed on the waiting list.

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- B. In the event the number of Class A fishing guide licenses in any year is less than the maximum number of licenses authorized by subdivision 4 of 4 VAC 20-1180-40, the vacant licenses may be filled by persons from the waiting list in their order of listing

This is to certify that the foregoing is a true and accurate copy of the chapter passed by the Marine Resources Commission, pursuant to authority vested in the Commission by § 28.2-201 of the Code of Virginia, duly advertised according to statute, and recorded in the Commission's minute book, at meeting held in Newport News, Virginia, on August 25, 2009.

COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION

Steven G. Bowman

BY: *Jose McCuskey*
STEVEN G. BOWMAN
COMMISSIONER

Subscribed and sworn to before me this 27th day of August 2009.

Jane E. Warren
Notary Public

<p>JANE E. WARREN NOTARY PUBLIC Commonwealth of Virginia Reg. #7191792 My Commission Expires <u>3-31-12</u></p>
