"PERTAINING TO RECREATIONAL GEAR LICENSES"

CHAPTER4 VAC20-670-10 ET SEQ.

PREAMBLE

This chapter establishes licenses for the recreational and personal use of certain fishing and crabbing gear. It limits the amount of gear and the catch, and establishes gear identification requirements and harvest reporting requirements for the licensees.

This chapter is promulgated pursuant to authority contained in §§28.2-201, 28.2-226.1 and 28.2-226.2 of the Code of Virginia. This chapter amends and re-adopts, as amended, previous Chapter 4VAC20-670-10 et seq., which was promulgated April 22, 2008 and made effective on April 30, 2008. The effective date of this chapter, as amended, is June 1, 2009.

4VAC20-670-10. Purpose.

The purpose of this chapter is to establish licenses for the recreational and personal use of certain fishing and crabbing gear. Limits are established on the amount of gear which may be used and the amount of catch which may be taken. Gear identification requirements and harvest reporting requirements are established to reduce the possibilities of gear conflicts and to assess the levels of harvest made by recreational users of commercial gear.

4VAC20-670-15. Definitions.

"Saltwater-freshwater boundary" means those lines on the James, York and Rappahannock rivers, specified as follows:

1. For the James River and its tributaries: a line connecting Hog Point and the downstream point of the mouth of College Creek;
2. For the York River and its tributaries: the Route 33 bridges; and
3. For the Rappahannock River and its tributaries: the Route 360 Bridge.

4VAC20-670-20. Recreational gear licenses.

A. Any person desiring to take or catch finfish or shellfish for recreational purposes in the tidal waters of Virginia using commercial gear authorized under §28.2-226.1 of the Code of Virginia shall first obtain the license for the appropriate gear.

B. Any license to use fishing gear for recreational purposes shall be issued to an individual for his exclusive use and shall not be transferable.

C. No person shall be issued more than one recreational gill net license, more than one recreational crab pot license, more than one crab trap license, or more than one recreational eel pot license.

D. No license shall be required of any person taking minnows, menhaden, or mullet with a cast net for personal use as bait which is not to be sold, traded, or bartered.

4VAC20-670-25. Harvest limits.

It shall be unlawful for any person licensed to use recreational crab pots, recreational crab trap, or recreational ordinary crab trot line, as described in 4VAC20-670-20, to take or possess more than one bushel of hard crabs and two dozen peeler crabs, in any one day, for personal use.

4VAC20-670-30. Gear restrictions.

A. It shall be unlawful for any person to use any gill net greater than 300 feet in length when licensed for recreational purposes under this chapter except as described in subsection B of this section. Any person licensed to use a recreational gill net up to 300 feet in length shall stay within 100 yards of such net when it is overboard. Failure to attend such net in this fashion is a violation of this chapter.

B. It shall be unlawful for any person to use any anchored gill net when licensed for recreational purposes under this chapter that is greater than 110 feet in length in any of the tidal waters upriver of the saltwater-freshwater boundaries. Any anchored gill net set or placed in areas upriver of the saltwater-freshwater boundaries shall be retrieved within one hour of setting or placing that gill net. Any person licensed to use a recreational anchored gill net shall stay within 100 yards of such net when it is overboard. Failure to attend such net in this fashion is a violation of this chapter, and any unattended anchored gill net shall be confiscated by the marine police officer.

C. It shall be unlawful for any person to use more than five crab pots or more than two eel pots when licensed for recreational purposes under this chapter.

D. Any law or chapter applying to the setting or fishing of commercial gill nets, cast nets, dip nets, crab pots, crab traps, or crab trot lines shall also apply to the gear licensed under this chapter when set or fished for recreational purposes, except that: (i) certain commercial gear used for recreational purposes shall be marked in accordance with the provisions described in 4VAC20-670-40; (ii) the daily time limits for commercial crab potting and peeler potting established in 4VAC20-270-30 shall not apply to the setting and fishing of recreational crab pots licensed under this chapter; and, (iii) the closed season and area established in §28.2-709 of the Code of Virginia shall not apply to the setting and fishing of recreational crab pots licensed under this chapter.

E. It shall be unlawful for any person to use any recreational gill net to catch and possess any species of fish whose commercial fishery is regulated by an annual harvest quota.

F. It shall be unlawful for any person using a recreational gill net, fish cast net, or fish dip net to take and possess more than the recreational possession limit for any species regulated by such a limit. When fishing from any boat, using gear licensed under this chapter, the total possession limit shall be equal to the number of persons on board legally eligible to fish multiplied by the individual possession limit for the regulated species, and the captain or operator of the boat shall be responsible for adherence to the possession limit.

G. It shall be unlawful for any person using a recreational gill net, fish cast net, or fish dip net to take and possess any fish which is less than the lawful minimum size established for that species. When the taking of any fish is regulated by different size limits for commercial and recreational fishermen, that size limit applicable to recreational fishermen or to hook-and-line fishermen shall apply to the taking of that species by persons licensed under this chapter.

H. It shall be unlawful for any person to use any ordinary crab trot line greater than 300 feet in length when licensed for recreational purposes under this chapter.

I. It shall be unlawful, for any person licensed to use five crab pots under this chapter, to fish those pots on Sunday or to fish those pots from September 16 through May 31.

4VAC20-670-40. Gear marking requirements:

A. Buoys of any crab pot, eel pot, gill net or ordinary crab trot line used for recreational purposes shall be marked with the licensee's last four numbers of his social security number or driver's license number, preceded by the letter "R".

B. An offshore stake of any crab trap used for recreational purposes shall be marked with the licensee's last four numbers of his social security number or driver's license number, preceded by the letter "R".

C. In accordance with subsections A and B of this section, licensees shall mark their gear in a legible and visible manner and in figures of not less than one inch in height.

4VAC20-670-50. Reporting requirements.

Any person using recreational gear, other than recreational fish cast net, recreational fish dip net or recreational eel pot, described in 4 VAC 20-670-20 shall report annually, on forms provided by the commission, the weight and species harvested, location of harvest, days fished, and amount of gear used.

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4VAC20-670-60. Penalty.

As set forth in §28.2-903 of the Code of Virginia, any person violating any provision of this chapter shall be guilty of a Class 3 misdemeanor and a second or subsequent violation of any provision of this chapter committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

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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, recorded in the Commission's minute book, at meeting held in Newport News, Virginia on May 26, 2009.

COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION

BY: Jack H Travelstead
for **Steven G. Bowman**
Commissioner

Subscribed and sworn to before me this 28th day of May, 2009.

Jane E Warren
Notary Public

JANE E. WARREN
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #7191792
My Commission Expires 3-31-12