

HOUSE BILL NO. 2326

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Agriculture, Chesapeake and Natural Resources

on _____)

(Patron Prior to Substitute—Delegate Hodges)

A BILL to amend and reenact §§ 28.2-226.1, 28.2-302 and 28.2-302.5 of the Code of Virginia, relating to commercial fishing pier; public fishing pier owned by a political subdivision; exclusion.

Be it enacted by the General Assembly of Virginia:

1. That §§ 28.2-226.1, 28.2-302 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 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~~ 12 of § 28.2-302.5 shall be exempt from the requirement of obtaining a commercial gear license for recreational purposes.

§ 28.2-302. Commercial fishing pier; license fee; penalty.

A. The owner of a commercial fishing pier shall pay an annual license fee of \$50 or as subsequently revised by the Commission pursuant to § 28.2-201 for each pier that is over or upon the subaqueous beds of

31 the Commonwealth.

32 B. Net fishing shall not be permitted within 300 yards of the sides or end of a commercial fishing pier.

33 The Commission may decrease this distance if it considers 300 yards to be an excessive distance because of
34 the size of the body of water where the pier is located. A violation of this subsection is a Class 3
35 misdemeanor.

36 C. The construction or erection of a commercial fishing pier on a subaqueous bed of the Commonwealth
37 is subject to the permit requirements of § 28.2-1203.

38 D. For purposes of this section, a commercial fishing pier means any pier whose primary purpose is to
39 allow fishing by the public for a fee. A *commercial fishing pier does not include a* public fishing pier
40 operated by a political subdivision ~~shall be considered to be a commercial fishing pier, although no fee is~~
41 charged.

42 **§ 28.2-302.5. Exemptions to saltwater recreational fishing license.**

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

45 1. A person under the age of 16 or a person who has attained the age of 65.

46 2. A person fishing from private real property that he owns or rents, the nonpaying guest of such person,
47 or a member of the immediate family of such person.

48 3. A person fishing from a licensed recreational boat licensed pursuant to § 28.2-302.7.

49 4. A person fishing from a licensed headboat, charterboat, or pier licensed pursuant to § 28.2-302 or
50 28.2-302.8.

51 5. A person fishing with gear licensed by the Commission.

52 6. The holder of a valid recreational fishing license issued by another state or jurisdiction, upon
53 determination of reciprocity of the license by the Commissioner.

54 7. *A public pier operated by a political subdivision.*

55 8. Members of the following groups, as determined by the Commissioner:

56 a. Organized groups of individuals with physical or mental limitations;

57 b. Organized groups of military veterans residing in veterans' hospitals; and

58 c. School groups, grades kindergarten through 12, participating in school-sponsored trips.

59 8. 9. A permanently and totally disabled person as defined in § 58.1-3217 holding a special lifetime

60 saltwater recreational fishing license issued pursuant to § 28.2-302.10.

61 ~~9. 10.~~ A person holding a lifetime saltwater recreational fishing license issued pursuant to § 28.2-302.10:1

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63 ~~10. 11.~~ A person fishing from a federally owned park or reserve with boundaries extending into an
64 adjoining state that does not require a saltwater fishing license.

65 ~~11. 12.~~ A Virginia resident who is a member of an American Indian tribe recognized by the
66 Commonwealth and is carrying (i) an identification card or paper signed by the chief of his tribe, (ii) a valid
67 tribal identification card, (iii) a written confirmation through a central tribal registry, or (iv) a certification
68 from a tribal office, stating that the person is a member of such tribe. Such card or other certification shall
69 create a presumption of residence in Virginia that may be rebutted by proof of actual residence elsewhere.

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