

Notice of Proposed Rulemaking

COMMONWEALTH OF PENNSYLVANIA PENNSYLVANIA FISH AND BOAT COMMISSION

Title 58. Recreation Part II. Fish and Boat Commission Chapter 63 Fishing

Preamble

The Fish and Boat Commission (Commission) proposes to amend Chapter 63 (relating to general fishing regulations). The Commission is publishing this notice of proposed rulemaking under the authority of 30 Pa. C.S. (relating to the Fish and Boat Code) (code).

A. *Effective Date*

The proposed rulemaking, if approved on final-form rulemaking, will go into effect upon publication in the *Pennsylvania Bulletin*.

B. *Contact Person*

For further information on the proposed rulemaking, contact Wayne Melnick, Esq., P.O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed rulemaking is available on the Commission's website at www.fishandboat.com.

C. *Statutory Authority*

The proposed amendment to § 63.2 (relating to display of fishing license and verification of license purchase) is published under the statutory authority of section 2703 of the code (relating to possession and display of licenses).

D. *Purpose and Background*

The proposed rulemaking is designed to improve, enhance and update the Commission's fishing regulations. The specific purpose of the proposed amendment is described in more detail under the summary of proposal.

E. *Summary of Proposal*

The Commission is constantly exploring new technologies as they relate to fishing and boating within the Commonwealth. One such technology is the purchase of a fishing license or other permit via the internet on a mobile device. These devices allow for instant purchases and provide additional opportunities to get citizens on the waterways fishing; however, many individuals do not have a readily available means to print the license or permit certificate. This creates a problem when an angler is attempting to do the right thing before heading to their favorite waterway.

Current regulations make it unlawful to fish on Commonwealth waterways without having a valid license certificate displayed on an outer garment. Since it is impractical to display a PDF (Portable Document Format) on a mobile device on an outer garment, Commission staff undertook a review of the current wording of section 63.2 to identify a solution. As part of that review, staff determined that many states have done away with display requirements. Ohio not only did away with the requirement but specifically added wording to its law to allow an angler to provide a PDF stored on a mobile device as proof of a current license. Recently, the Pennsylvania Game Commission also removed the display requirement for hunting licenses. This change has added to the confusion for anglers and has led to complaints fielded by officers and regional office staff. Another complaint that staff hear is that because of the display requirement, anglers lose their

license, usually because they come unattached somewhere along a stream or on a boat never to be seen again.

In looking at all aspects of removing the display requirement, the most obvious downside is that officers will need to do a field check on every angler since that will be the only way to verify whether someone has a license. This practice may lead to more complaints from anglers who get checked multiple times throughout a season. The removal of the display requirement will not change the practice of giving an individual seven days to provide proof of a license purchase when caught fishing without a license in possession.

The Commission proposes to amend § 63.2 to read as set forth in Annex A.

F. *Paperwork*

The proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

G. *Fiscal Impact*

The proposed rulemaking will not have adverse fiscal impacts on the Commonwealth or its political subdivisions. The proposed rulemaking will not impose new costs on the private sector or general public.

H. *Public Comments*

Interested persons are invited to submit written comments, objections or suggestions about the proposed rulemaking to the Executive Director, Fish and Boat Commission, P.O. Box 67000,

Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/regcomments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

For the Pennsylvania Fish and Boat Commission

John A. Arway
Executive Director

Annex A

Regulation No. 48A-276

Title 58. Recreation

Part II. Fish and Boat Commission

Subpart B. Fishing

CHAPTER 63. GENERAL FISHING REGULATIONS

§ 63.2. [Display] Possession of fishing license and verification of license purchase.

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(b) [Display on an outer garment] Possession of fishing license. It is unlawful for a person required by Chapter 27 of the code (relating to fishing licenses) to purchase a fishing license to fish in the waters of this Commonwealth or in boundary waters or land unless the person has a valid fishing license certificate and associated permits on his person and shows them upon the request of an officer. A license may be stored on a mobile device and displayed upon the request of an officer. A person may elect to [displays the] display a license certificate, a

license button or other device approved by the Executive Director on a hat or outer garment while fishing. **If a license button or other device is displayed, the person shall carry the license on his person.** [A warning will be issued for a first violation of this section if the person has a valid fishing license in his possession and about his person and shows it upon request.] An institutional license issued under section 2708 of the code (relating to institutional licenses) may be **[displayed] possessed** or maintained by the person fishing or by the person attending the person who is fishing. **[If a license button or other device is displayed instead of the license certificate, the person shall carry the license certificate about his person.]**

(c) *Fishing without a license in possession.*

(1) When a **[resident of this Commonwealth] person** is apprehended for fishing without a license in his possession and claims that he previously purchased a valid fishing license for that year, the officer apprehending the individual shall give the individual 7 days to produce the original of the license certificate, if the individual provides to the officer's satisfaction, at the time of apprehension, positive proof of identity and a residence address within this Commonwealth. The original license certificate shall show all required permits and a purchase date and time prior to the date and time of apprehension.

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