

Order Adopting Amendments

COMMONWEALTH OF PENNSYLVANIA PENNSYLVANIA FISH AND BOAT COMMISSION

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

Preamble

The Fish and Boat Commission (Commission) amends Chapter 63 (relating to general fishing regulations). The Commission is publishing this final-form rulemaking under the authority of 30 Pa. C.S. (relating to the Fish and Boat Code) (code). The amendments update the Commission's display requirements for fishing licenses.

A. *Effective Date*

This final-form rulemaking will go into effect upon publication in the *Pennsylvania Bulletin*.

B. *Contact Person*

For further information on this final-form rulemaking, contact Wayne Melnick, Esq., P.O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This final-form rulemaking is available on the Commission's web site at <https://www.fishandboat.com>.

C. *Statutory Authority*

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

D. *Purpose and Background*

The specific purpose and background of the amendments are described in more detail under the summary of changes.

E. *Summary of Changes*

The Commission is constantly exploring new ways to provide greater convenience for anglers and boaters. In recent years, anglers have remarked that the Commission's requirement to display fishing licenses on an outer garment is antiquated and often inconvenient, particularly when an angler is purchasing a license online on relatively short notice and does not have a license holder. Another common complaint is that due to the display requirement, anglers often lose their license after it becomes unattached somewhere along a stream or on a boat. In these situations, the angler then incurs the added cost of purchasing a duplicate license.

Nationwide, Pennsylvania is one of only three states to still require the display of a fishing license, along with Delaware and New Jersey. In 2012, the Game Commission removed the display requirement for hunting licenses, which has generally been well received by their customers. This change added more confusion for anglers and has led to complaints fielded by waterways conservation officers and regional staff. Removing the display requirement for fishing licenses would provide greater consistency between the two agencies, as many hunters are also anglers. This final rulemaking would also help facilitate the eventual purchase and storage of fishing licenses on mobile applications.

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 or not someone has a license. This practice may lead to more complaints from anglers who get checked multiple times throughout a season; however, the final rulemaking would allow anglers to continue displaying their license if they prefer. Additionally, the removal of the display requirement will not change the practice of giving a resident of this Commonwealth 7 days to provide proof of a license purchase when caught without a license in their possession.

A similar rulemaking was approved at the July 2017 Commission meeting. The proposed rulemaking was tabled shortly thereafter due to concerns from the Office of the Attorney General that the measure also allowed the display of licenses using a mobile device, which would require an amendment to Pa. C.S. 30 § 2710 removing the requirement for licenses to be signed “in ink.” Staff are concurrently pursuing legislation to remove this provision so a mobile device may be used in the future. This final rulemaking would only remove the display requirement, not authorize display on a mobile device.

A notice of proposed rulemaking was published at 49 Pa. B. 7413 (December 21, 2019). The Commission received one public comment opposed to the proposal.

The Commission therefore amends § 63.2 to read as set forth in the proposed rulemaking published at 49 Pa. B. 7413 (December 21, 2019).

F. *Paperwork*

This final-form rulemaking will not increase paperwork and will not create new paperwork requirements.

G. *Fiscal Impact*

This final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions.

H. *Public Comments*

A notice of proposed rulemaking was published at 49 Pa. B. 7413. The Commission received one comment opposed to the proposal.

FINDINGS

The Commission finds that:

- (1) Public notice of intention to adopt the amendments adopted by this order has been given under sections 201 and 202 of the Act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§1201, 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.
- (2) A public comment period was provided, and one comment was received.
- (3) The adoption of the amendments of the Commission in the manner provided in this order is necessary and appropriate for administration and enforcement of the authorizing statutes.

ORDER

The Commission, acting under the authorizing statutes, orders that:

- (A) The regulations of the Commission, 58 Pa. Code Chapters is amended in § 63.2 to read as set forth at 49 Pa. B. 7413.
- (B) The Executive Director will submit this order and 49 Pa. B. 7413 to the Office of Attorney General for approval as to legality and form as required by law.
- (C) The Executive Director shall certify this order and 49 Pa. B. 7413 and deposit them with the Legislative Reference Bureau as required by law.
- (D) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

For the Pennsylvania Fish and Boat Commission

Timothy D. Schaeffer
Executive Director

Annex A

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 **[displays the] has a valid fishing license certificate and associated permits on his person and shows them upon the request of an officer. A person may elect to display a** license certificate, a license button or other device approved by the Executive Director on a hat or outer garment while fishing. **[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.] If a license button or other device is displayed, the person shall carry the license on his person.** 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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