

ASSEMBLY, No. 417

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman GREGORY P. MCGUCKIN

District 10 (Ocean)

Assemblyman JAY WEBBER

District 26 (Essex, Morris and Passaic)

Assemblyman JOHN CATALANO

District 10 (Ocean)

SYNOPSIS

Clarifies that fishing license is not required to fish at a private community lake.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 2/3/2020)

1 **AN ACT** concerning fishing licensure requirements and amending
2 R.S.23:3-1.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. R.S.23:3-1 is amended to read as follows:

8 23:3-1. a. A person shall not at any time hunt, take or
9 attempt to take, kill or pursue, with a gun or any firearm of any kind
10 or character, or with longbow and arrow, a wild bird, animal or
11 fowl, or take or attempt to take any skunk, mink, muskrat, or other
12 fur-bearing animal by means of a trap, or set a trap for any fur-
13 bearing animal, nor shall any person above the age of 16 years at
14 any time take or attempt to take fish in any of the fresh waters of
15 this State by the method commonly known as angling with a hand
16 line or rod and line, or with longbow and arrow, unless he has first
17 procured a proper license.

18 b. A person shall not engage in hunting, fishing or trapping
19 unless the appropriate license or tag as prescribed hereunder is
20 visibly displayed in a holder in a conspicuous place on the outer
21 clothing at the time of such hunting, fishing or trapping. A licensee
22 shall exhibit his license and tag for inspection to any conservation
23 officer, deputy conservation officer, police officer or other person
24 requesting to see it.

25 c. A person under 12 years of age shall not be issued a trapping
26 license.

27 d. A person who is on active duty with any branch or
28 department of the armed service of the United States shall be
29 entitled to hunt or fish upon obtaining the proper resident license
30 therefor.

31 e. Nothing in this section shall prevent the occupant of a farm
32 in this State, who actually resides thereon, or the immediate
33 members of his family who also reside thereon, from hunting for,
34 taking, killing or pursuing with a gun or firearm or a longbow and
35 arrow on the farm a wild bird, animal or fowl, from taking any
36 skunk, mink, muskrat, or other fur-bearing animal by means of a
37 trap or from setting a trap for a fur-bearing animal on the farm, or
38 from taking fish on the farm with hand line, rod and line, or
39 longbow and arrow in the manner provided by law during the time
40 when it is lawful so to do, without being licensed hereunder. The
41 exemption provided pursuant to this subsection shall not apply to a
42 person residing on the farm or in a tenant house thereon who is not
43 a member of the occupant's family, nor to a servant of the occupant.

44 f. (1) Nothing in this section shall prevent a resident of a
45 private community in this State, or any authorized guest thereof,
46 from taking or attempting to take fish from a private community

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 lake in the resident's community with a hand line, rod and line, or
2 longbow and arrow, in the manner provided by law and during the
3 time when it is lawful to do so, without being licensed hereunder.

4 (2) As used in this subsection:

5 "Private community" or "community" means an association or
6 other organized group of homeowners or tenants residing within a
7 fixed or defined geographic area, which homeowners or tenants
8 have, through contract or deed, provided for and agreed to common
9 or shared ownership or other interests in real property, and which
10 common or shared real property remains closed to the general
11 public, except to bona fide guests of the homeowners and tenants
12 who share ownership or other interest therein. "Private community"
13 includes, but is not limited to, a retirement subdivision or retirement
14 community, as defined by section 2 of the "Retirement Community
15 Full Disclosure Act," P.L.1969, c.215 (C.45:22A-2), and a planned
16 real estate development, as defined by section 3 of "The Planned
17 Real Estate Development Full Disclosure Act," P.L.1977, c.419
18 (C.45:22A-23).

19 "Private community lake" means a manmade, self-contained
20 body of water that is located on land owned by a private
21 community, and which body of water is under the exclusive control
22 of community members or residents, and is stocked and maintained
23 at their sole expense.

24 g. (1) Any person found hunting, fishing or trapping without
25 the proper license or tag as may be required conspicuously
26 displayed pursuant to subsection b. of this section shall be liable to
27 a penalty of \$10 and costs, to be recovered pursuant to the
28 provisions of Title 23, chapter 10, of the Revised Statutes.

29 (2) Any person who violates any provision of this section for
30 which a penalty is not otherwise expressly provided, shall be liable
31 to a penalty of not less than \$50 nor more than \$200 for each
32 offense.

33 (cf: P.L.1999, c.282, s.3)

34
35 2. This act shall take effect immediately.

36 37 38 STATEMENT

39
40 This bill would specify that a fishing license is not required in
41 order for a resident of a private community, or the authorized guests
42 thereof, to take fish from a private community lake in the resident's
43 community. "Private community lake" would be defined by the bill
44 to mean: "a manmade, self-contained body of water that is located
45 on land owned by a private community, and which body of water is
46 under the exclusive control of community members or residents,
47 and is stocked and maintained at their sole expense."

1 Although current statutory law provides that a person must
2 obtain a fishing license in order to engage in fishing activities on
3 the “waters of this State,” it also specifies that “[a]ll ponds, lakes
4 and waters created by or under the exclusive control of any
5 individuals or associations, stocked and maintained at their sole
6 expense and not runways for migratory fish shall be considered
7 ‘*private waters*,’ rather than ‘waters of this [S]tate.’” Apparently,
8 however, the Division of Fish and Wildlife (DFW) does not
9 interpret the current law, in this regard, as providing an exemption
10 from the State’s fishing licensure requirements for persons who are
11 engaged in authorized fishing activities at a private community
12 lake, as defined above. As a result, and in order to prevent the
13 future issuance by DFW of citations to such persons for unlicensed
14 fishing, this bill would add a provision to the State’s fishing
15 licensure law in order to clearly specify that a fishing license is not
16 required for these authorized persons to fish at a private community
17 lake.