

CHAPTER 140
FORMERLY
SENATE BILL NO. 66
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO THE EMPLOYMENT OF ENFORCEMENT PERSONNEL TO ENFORCE THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL'S DIVISION OF PARKS AND RECREATION'S RULES AND REGULATIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 4701, Title 7 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4701. Powers and duties.

(a) The Department of Natural Resources and Environmental Control ~~may:~~ may do all of the following:

(1) Select and acquire by gift, devise, bequest, purchase, and through the exercise of the power of eminent domain, such lands as are desirable to be utilized chiefly for recreation, and to develop and maintain such ~~areas;~~ areas.

(2) Expend for such acquisition, ~~development-~~ development, and maintenance, such funds as are appropriated for such purposes, or received as earnings from the operation of such areas, or received from any other ~~source;~~ source.

(3) Employ such administrative and technical assistance as is, in the opinion of the ~~Department~~ Department, necessary in order to plan, ~~develop-~~ develop, and maintain the areas which it ~~administers;~~ administers.

(4) Make and enforce regulations relating to the protection, ~~care-~~ care, and use of the areas it ~~administers;~~ administers.

~~(5)(A)~~ (5)a. Establish and collect such user charges, which shall approximate and reasonably reflect all costs necessary to defray the expenses of the Department for the use of the facilities and services it provides in areas it administers. The Department shall, in addition, establish and impose a schedule of fees for entrance to state parks and for surf fishing vehicles and snowmobiles on said lands, with the concurrence and approval of the General Assembly. The Secretary of the Department of Natural Resources and Environmental Control shall establish the period and areas on which park fees and user charges shall be imposed. The Secretary shall annually prepare a schedule of park entrance and surf fishing vehicle and snowmobile fees ~~pursuant to-~~ under this section and submit the same as part of the Department's annual operating budget proposal. All of the fees collected ~~pursuant to-~~ under this section shall be deposited in the General Fund of this State and designated solely for park operations and maintenance; provided, however, that no fee shall be imposed on any recognized veteran's service organization for the use of any state park or portion thereof for purposes of patriotic or memorial services, provided that advance written notification of not less than 15 days is given to the agency and does not conflict with other previously scheduled activities within the ~~park;~~ park.

~~(B)~~(i) b.1. Delaware residents who are 62 years of age or older and who own a motor vehicle validly registered in Delaware may pay an annual fee of not less than 1/2 of the annual fee established for Delaware residents pursuant to ~~under~~ paragraph ~~(a)(5)(A)~~ (a)(5)a. of this section for each such registered motor vehicle which shall permit such vehicle entrance to any state park or recreation area during the calendar year for which the fee was paid. Persons who are 62 years of age or older and who own a motor vehicle validly registered in another state may pay an annual fee of not less than 1/2 of the annual fee established for out-of-state registered vehicles pursuant to ~~under~~ paragraph ~~(a)(5)(A)~~ (a)(5)a. of this section for each such registered motor vehicle which shall permit the vehicle entrance to any state park or recreation area during the calendar year for which the fee was paid. Each applicant under this paragraph shall furnish proof of age, vehicle ~~ownership~~ ownership, and vehicle registration at the time such application is made. Annual permits issued under this paragraph will be valid for any day excluding holidays. No annual permit issued under this paragraph will be honored on any day unless the owner of the vehicle for which such permit is issued is the operator of the vehicle at the time of entrance to the state park or recreation area to which admission is sought. All the fees collected under the authority of this section shall be deposited in the General Fund, and designated solely for park operations and ~~maintenance~~; maintenance.

~~(ii)~~ 2. A Delaware resident who is 65 years of age or older may pay a 1-time fee of \$45, which will permit the resident to enter any state park or recreation area for the lifetime of the resident, so long as the resident is the operator of or a passenger in a Delaware-registered vehicle at the time of entrance to the state park or recreation area to which admission is sought. An applicant for a lifetime permit must furnish proof of age and Delaware residency at the time application for the permit is made. All fees collected under the authority of this paragraph must be deposited in the General Fund and designated solely for park operations and maintenance.

~~(C)~~ c. Delaware residents who are disabled, and who hold a valid and current Gold Access Passport Card, as issued by the National Park Service of the United States Department of the Interior, shall be exempted from the annual or daily entrance fees required by this ~~section~~; section.

~~(D)~~ d. Any resident who has served honorably for 90 or more consecutive days on active duty in the armed forces of the United States, including service as member of the Delaware National Guard, in military actions in Southwest Asia associated with Operation Iraqi Freedom or Operation Enduring Freedom may, for the first 12 months following the date the resident was honorably discharged or removed from active status, receive a pass granting the resident free admission to any state park in this State without ~~charge~~; charge.

~~(E)~~ e. Any resident, who does not qualify for free admission pursuant to ~~under~~ paragraph ~~(a)(5)(D)~~ (a)(5)d. of this section, who has honorably served or is honorably serving in the armed forces of the United States, including service as a member of the Delaware National Guard, and who owns a motor vehicle validly registered in Delaware may pay an annual fee of 1/2 of the annual fee established for Delaware residents pursuant to ~~under~~ paragraph ~~(a)(5)(A)~~ (a)(5)a. of this section for each such registered motor vehicle which shall permit such vehicle entrance to any state park or recreation area during the calendar year for which the

fee was paid. Each applicant under this paragraph shall furnish proof of service in the armed forces of the United States, vehicle ~~ownership~~ ownership, and vehicle registration at the time such application is made. All the fees collected under the authority of this paragraph shall be designated solely for park operations and maintenance.

~~(F)~~ f. A resident who is an active Delaware volunteer firefighter, an active Delaware volunteer emergency medical technician (EMT), or a life-member of a Delaware volunteer fire department is entitled to receive annually, without charge, a surf fishing vehicle permit. A firefighter, EMT, or life-member who volunteers in Delaware but lives out of state is entitled to receive annually, at the Delaware resident rate, a surf fishing vehicle permit.

~~(i)~~ 1. "Active Delaware volunteer firefighter" means a person who is a member of a Delaware volunteer fire department and who responds to at least 20% of the department's annual alarms and/or crew calls as a nonpaid firefighter.

~~(ii)~~ 2. "Active volunteer emergency medical technician" or "EMT" means a person who is a member of a Delaware volunteer fire department or a Delaware volunteer ambulance company and who responds to at least 20% of the department's or company's annual emergency medical service calls as a nonpaid EMT, EMT-C, or EMT-P, as described in § 9701(11), (12), and (13) respectively of Title 16.

~~(iii)~~ 3. "Life-member of a Delaware volunteer fire department" means a person who is a member of a Delaware volunteer fire department and who has been awarded life membership status by that department.

~~(iv)~~ 4. To qualify without charge for a surf fishing vehicle permit ~~pursuant to~~ under this paragraph, the firefighter, EMT, or life-member must submit annually to the Department an original letter on official fire department or ambulance company letterhead, signed by the fire department's or ambulance company's president and authenticated by the president of the Delaware Volunteer Firefighter's Association. The letter must explain how the person qualifies for a surf fishing vehicle permit under this paragraph.

~~(v)~~ 5. One surf fishing vehicle permit may be issued annually to a vehicle registered to the qualifying active Delaware Volunteer Firefighter, active emergency medical technician (EMT), or life member in accordance with procedures established by the Department.

~~(G)(i)~~ g.1. The Department is authorized to administer a program for the issuance of numbered surf fishing and state park specialty vehicle plates. A state park specialty vehicle plate shall serve as an annual permit. The Department will establish fees, ~~rules~~ rules, and regulations for the purchase, replacement, transfer, renewal, ~~nonrenewal~~ nonrenewal, and forfeiture of such plates managed through this voluntary program. The Department may charge a fee for surf fishing and state park specialty vehicle plates not to exceed \$500 per plate or may auction surf fishing and state park specialty plates ~~pursuant to~~ under paragraph ~~(a)(5)(G)(ii)~~ (a)(5)g.2. of this section in which case the amount charged shall be based upon interest and demand for such plates as determined by auction.

(ii) 2. The Secretary is hereby authorized to establish, ~~implement~~ implement, and manage an auction program to sell surf fishing and state park specialty vehicle plates as provided for in paragraph ~~(a)(5)(G)(i)(a)(5)g.1.~~ of this section. Any auction of such vehicle plates shall be conducted in accordance with accepted auction practices and shall require valid vehicle registration as proof of eligibility, limit individuals to acquiring 1 vehicle plate per licensed vehicle, and ensure that the highest bid from an eligible individual is the successful bid. Vehicle plates numbered 1 through 200 shall be limited to vehicles registered in ~~Delaware;~~ Delaware.

(6) Make on its own motion or in cooperation with other agencies of the State, studies of the recreational facilities now available in the State, and of the recreational needs of the State, and determine what areas not now available for public recreation should be ~~acquired;~~ acquired.

(7) Enter into agreements with proper persons or corporations for periods not to exceed 25 years for operation of services on the areas it ~~administers;~~ administers.

(8) Employ and fix the salaries of such personnel as it deems proper for the enforcement of its rules and regulations. Enforcement personnel may arrest with a warrant for any violation of the Department of Natural Resources and Environmental Control rules and regulations, or without a warrant for any such violation committed in their presence. Enforcement personnel, with respect to the enforcement of the Department of Natural Resources and Environmental Control rules and regulations, shall have all the powers of investigation, ~~detention~~ detention, and arrest conferred by law on peace officers or ~~constables;~~ constables.

(9) Grant, with the written approval of the Cabinet Committee on State Planning Issues, easements, for either private or public purpose over or under any public lands which it administers, for the purpose of transmission lines, such as: Telephone and telegraph lines, electric power lines, gas pipelines, and water and sewage pipelines and appurtenances. The term of any such easement together with the amount of any fee charged therefor shall be determined by the Department of Natural Resources and Environmental Control acting with approval of the Cabinet Committee on State Planning Issues, and any funds received for the grant of such easements shall be deposited by the Department of Natural Resources and Environmental Control with the State ~~Treasurer;~~ Treasurer.

(10) Select and obtain, by lease or agreement with the owners thereof and upon such terms and conditions as the Department of Natural Resources and Environmental Control, with the approval of the Cabinet Committee on State Planning Issues, shall determine, such lands as the Department of Natural Resources and Environmental Control deems appropriate and desirable for park and recreation use and purposes, and to improve, develop, ~~operate~~ operate, and maintain such lands for such purposes. The Department of Natural Resources and Environmental Control may only exercise the powers granted in this paragraph by lease or agreement entered into with the federal government or with a municipality, ~~agency~~ agency, or political subdivision of this ~~State; and~~ State.

(11) Enter into an agreement with the Barcroft Company of Lewes, Delaware, for a period not to exceed 25 years, for the use of land presently leased to Barcroft, as well as an adjoining triangular-shaped property

containing approximately .76 of an acre; provided, however, that the funds received from such agreement shall be appropriated to the Department of Natural Resources and Environmental Control to be used to rebuild and maintain, for the use of the public, a fishing pier located in the breakwater at Cape Henlopen State Park.

(12) Employ and fix the salaries of such personnel to be known as “seasonal patrol officers” who shall assist the Department of Natural Resources and Environmental Control’s park rangers and other peace officers employed under § 8003(13) of Title 29 to enforce the Division of Parks and Recreation’s rules and regulations. The Director of the Division of Parks and Recreation, or the Director’s designee, shall establish qualifications and provide training as deemed necessary and desirable for seasonal patrol officers.

a. Except as otherwise provided in paragraph (a)(12)c. of this section, Seasonal patrol officers have the power to do all of the following:

1. Issue civil summonses for civil violations.

2. Issue summonses for class D environmental violations, except for violations concerning persons actively engaged in surf fishing..

3. Issue written and verbal warnings.

4. Report any observed or suspected illegal activity to a park ranger or other peace officer.

b. Summonses and warnings issued by a seasonal patrol officer under paragraph (a)(12)a. of this section have the same force and effect as summonses and warnings issued by a park ranger or other peace officer under § 8003A of Title 29.

c. The Director of the Division of Parks and Recreation or authorized designee shall establish a policy pertaining to Seasonal Patrol Officers that specifies the class D environmental violations and the civil violations for which Seasonal Patrol Officers may issue summonses pursuant to paragraphs (a)(12)a.1. and (a)(12)a.2.

Approved July 23, 2019