
By: Senator Dyson

Introduced and read first time: February 2, 1996

Assigned to: Economic and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Fish - Limited Entry to Commercial Fishing - Prohibition of Waiting Lists**

3 FOR the purpose of repealing a requirement that the Department of Natural Resources
4 maintain certain waiting lists for the issuance of a tidal fish license; repealing
5 certain categories of applicants and preferences for a license; requiring the
6 Department to issue a license on receiving a completed application and fees;
7 repealing the requirement that the Department determine the number of licenses
8 that may be issued under a certain formula; repealing certain requirements that a
9 license be transferred to a certain person on a certain waiting list under certain
10 circumstances; repealing the requirement that a person whose license is revoked be
11 placed on a certain waiting list for a renewal; applying this Act retroactively; and
12 generally relating to the repeal of requirements establishing waiting lists for tidal
13 fish licenses.

14 BY repealing and reenacting, with amendments,
15 Article - Natural Resources
16 Section 4-701
17 Annotated Code of Maryland
18 (1989 Replacement Volume and 1995 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article - Natural Resources**

22 4-701.

23 (a) This section applies to any person who is required under Subtitle 2, 7, 8, 9, or
24 10 of this title to be licensed to guide fishing parties or to catch, sell, buy, process,
25 transport, export, or otherwise deal in fish caught in tidal waters.

26 (b) (1) The Department shall utilize a single, commercial license, to be known
27 and designated as a tidal fish license.

28 (2) A tidal fish license authorizes a licensee:

29 (i) To engage in each activity indicated on the license; and

2

1 (ii) For catching crabs, to utilize the number of crew members
2 indicated on the license.

3 (3) The Department may not issue a tidal fish license to, and a license may
4 not be held by, an individual who is younger than 12 years of age.

5 (4) A person may not guide fishing parties or catch, sell, buy, process,
6 transport, export, or otherwise deal in fish caught in tidal waters unless licensed under
7 this section.

8 (c) (1) The license year for every tidal fish license shall be 12 months from
9 September 1 through August 31 of the following year.

10 (2) A licensee and crew members may engage only in those activities for
11 which the annual fees for that license year have been paid.

12 (d) (1) The Department may issue no more than one authorization to a person
13 to engage in each activity under paragraph (2)(i) 1 and 2 of this subsection during a
14 license year.

15 (2) (i) On a tidal fish license, the Department may authorize any of the
16 following activities for which the indicated fee has been paid.

17 (ii) The following annual fees shall apply regardless of when the
18 license is issued or an activity is authorized:

19 1. To provide services as:

20 A. A fishing guide in the tidal waters of Maryland - \$50 for a
21 resident and \$100 for a nonresident; and

22 B. A master fishing guide, in addition to the fee under item A of
23 this item - \$50 per vessel

24 2. To catch for sale fish with equipment which is legal under
25 this title:

26 A. Finfish:

27 I. Hook and line only, anywhere: \$37.50

28 II. All other equipment: \$100

29 B. Crabs:

30 I. Up to 50 pots, trotlines, nets, dip nets, traps, pounds, and
31 scrapes: \$50

32 II. Over 50 pots, plus any other gear listed in item I of this
33 sub-sub-subparagraph: \$150

34 C. Clams - \$100

35 D. Oysters - \$250 for a dredge boat and \$50 for other than a
36 dredge boat

3

1 E. Conch, turtles, and lobster - \$50

2 F. For all activities in item 1A of this subparagraph and in items
3 A through E of this item - \$300

4 3. For one or two crew members employed under § 4-814 of
5 this title to enable a licensee to catch crabs under subparagraph (ii)2B and F of this
6 paragraph with more than 300 pots, the licensee shall pay:

7 A. For the tidal fish license year ending August 31, 1994 - \$50
8 for each crew member; and

9 B. For each tidal fish license year after August 31, 1994 - \$20
10 for each crew member.

11 4. Except for a licensee dealing in his own catch, for a person to
12 buy, process, pack, resell, market or otherwise deal in fish caught in the tidal waters of
13 Maryland - \$150

14 (iii) The fee established in subparagraph (ii)2B of this paragraph for an
15 authorization to catch crabs under a tidal fish license, shall be waived for a period of 5
16 years beginning April 1, 1994, for any senior person who, at any time between April 1,
17 1993 and March 31, 1994, held a valid tidal fish license for which a fee had been waived
18 under the applicable provision of law in effect on January 1, 1994.

19 (e) (1) To catch striped bass for sale:

20 (i) A licensee authorized under subsection (d)(2)(ii)2A of this section
21 shall pay an annual surcharge of \$200; or

22 (ii) A licensee authorized under subsection (d)(2)(ii)2F of this section
23 shall pay with the license fee an annual surcharge of \$100.

24 (2) A person may not catch oysters for sale without possessing a valid
25 license under this section and paying an annual surcharge of \$300 which shall be used by
26 the Department only for oyster repletion activities.

27 (3) In addition to the normal license fees imposed under subsection
28 (d)(2)(ii)2 and 4 of this section, a licensee shall pay to the Department an annual
29 surcharge of \$10 to be credited to the Seafood Marketing Office of the Department of
30 Agriculture to fund seafood marketing programs which have been approved by the
31 Department.

32 (f) (1) The Department shall accept applications for new authorizations to
33 participate in fishing activities under [subsection (d)(2)(ii)1 or 2 of] this section from
34 persons qualified under this subsection [and maintain separate waiting lists of primary
35 and secondary candidates for each fishing activity in order of the date and time that
36 applications are received.

37 (2) (i) A primary candidate is an applicant who is at least 12 years of age
38 and pays the annual fee for the license activity at time of application, and who:

4

1 1. Is a current tidal fish licensee who is authorized to engage in
2 fishing activities under subsection (d)(2)(ii)1 or 2 of this section and is applying for
3 authorization for another fishing activity;

4 2. Has been a crew member for at least 2 years in any
5 commercial fishery as certified by three persons licensed to catch fish for commercial
6 purposes; or

7 3. Is licensed to catch fish for commercial purposes in another
8 state and presents proof of that valid license at time of application.

9 (ii) 1. An eligible applicant under this subparagraph is a person
10 who:

11 A. Meets the eligibility requirements in subparagraph(i) of this
12 paragraph; and

13 B. Is the spouse, daughter, son, stepchild, grandchild, parent,
14 sister, brother, grandparent, father-in-law, mother-in-law, son-in-law, or
15 daughter-in-law of a person who holds a valid tidal fish license issued under this section.

16 2. An eligible applicant under this subparagraph shall be placed
17 at the head of the waiting list of primary candidates under this paragraph above other
18 primary candidates. Applicants under this subparagraph shall be placed at the head of the
19 list in order of the date and time that applications under this subparagraph are received.

20 (3) A secondary candidate is any applicant who cannot qualify as a primary
21 candidate under paragraph (2) of this subsection, is at least 12 years of age, and who pays
22 the annual fee for the activity at time of application].

23 [(4)] (2) An applicant for a new license to provide services as a commercial
24 fishing guide in tidal waters of the State shall supply as part of the initial application
25 verifiable references to any federal license that is issued by the U.S. Coast Guard to
26 operate a vessel carrying passengers for hire in the applicant's name, as a condition
27 precedent to engaging as a commercial fishing guide in tidal waters.

28 [(5)] (3) If an applicant withdraws the application, the Department shall
29 refund any fees the applicant has paid and shall remove that person's name and
30 application from the waiting list.

31 [(6) (i) There is no waiting list for authorization to engage in activities
32 under subsection (d)(2)(ii)3 and 4 of this section.

33 (ii) (4) The Department [may] SHALL issue an authorization to
34 engage in any of those activities upon receiving a complete application and payment of
35 fees.

36 [(g) (1) Except as provided in paragraph (2) of this subsection, the Department
37 may not issue an authorization for any activity under subsection (d)(2)(ii)1 or 2 of this
38 section:

39 (i) Unless the total number issued for that type of activity is less than
40 the number of authorizations which the Department determines is appropriate for the

5

1 resource and consistent with fishery management plans adopted under § 4-215 of this
2 title; and

3 (ii) Until it has adopted regulations stating the number of people who
4 may be authorized to engage in each fishing activity.

5 (2) The Department may issue an authorization for any activity under
6 subsection (d)(2)(ii)1 or 2 of this section to a person who has resided for at least 5 years
7 on an island in the State that is at least 3 miles from the mainland.

8 (3) In determining the number of people who may be authorized to
9 participate in each activity, the Department shall consider:

10 (i) Recommendations of the Tidal Fisheries Advisory Commission;

11 (ii) Recommendations of fishery management plans adopted by the
12 Department, the Chesapeake Bay Program, the Atlantic States Marine Fisheries
13 Commission, the Mid-Atlantic Fisheries Management Council, or any other appropriate
14 management body;

15 (iii) The number of people historically participating; and

16 (iv) Target species, size, number, weight, incidental catch, total
17 biomass, annual harvest, mortality rates, and other factors which are necessary and
18 appropriate.

19 (4) (i) The Department shall by regulation limit the total number of
20 authorizations to fish for striped bass under any commercial license to the number of
21 persons who, based on the best information available to the Department, were authorized
22 to fish for striped bass between September 1, 1993 and April 1, 1994.

23 (ii) The Department shall provide in its regulations for reallocation of
24 any authorizations that may be revoked or voluntarily relinquished to the Department.

25 (h) (1) The Department shall issue a license authorizing participation in a
26 particular fishing activity to the first person on the primary candidate waiting list for that
27 fishing activity.

28 (2) If there are no primary candidate applications on file the Department
29 shall issue a license authorizing participation in a particular fishing activity to the first
30 person on the secondary candidate waiting list for that fishing activity.

31 (i) (G) (1) [A license may be transferred only under the provisions of this
32 subsection.

33 (2) A license may be transferred to a person who is the licensee's spouse,
34 daughter, son, stepchild, grandchild, parent, sister, brother, grandparent, father-in-law,
35 mother-in-law, son-in-law, or daughter-in-law, and only:

36 (i) If the person is currently on the primary candidate waiting list for
37 that activity and the licensee makes application to the Department requesting transfer; or

38 (ii) Upon death of the licensee, if the licensee had indicated that
39 person's name on the license application on file with the Department.

6

1 (3) (i) The Department may approve a temporary transfer for not less
2 than 30 days and not more than 90 days regardless of whether the transferee is on the
3 primary or secondary candidate waiting list.

4 (ii) A person may not transfer a license in exchange for any type of
5 remuneration.

6 (4) (i) The Department shall establish by regulation a procedure for a
7 licensee, except a fishing guide licensee or a master fishing guide licensee, to voluntarily
8 register the licensee's commercial fishing vessel number on the face of the license.

9 (ii) If a licensee has voluntarily registered the vessel number on the
10 license under subparagraph (i) of this paragraph, the licensee may allow another person
11 to use the vessel for the commercial activities authorized on the license.

12 (iii) If a licensee allows another person to utilize a vessel under
13 subparagraph (ii) of this paragraph, for purposes of the license suspension criteria in
14 subsection (k) of this section, the licensee shall be held responsible for any violations
15 committed by the person using the vessel.

16 (5) (i) This paragraph applies only to a person who:

17 1. Holds a valid tidal fish license issued under this section and
18 who has held valid tidal fish licenses in each of the three immediately preceding seasons;
19 and

20 2. Under the tidal fish license has utilized the threshold amount
21 of vessel and gear as determined by the Department under subparagraph (ii) of this
22 paragraph.

23 (ii) The Department shall adopt by regulation a threshold amount of
24 vessel and gear, based on type, quantity, and value, that shall qualify a licensee to transfer
25 a tidal fish license under this paragraph.

26 (iii) A person who qualifies under this paragraph may, with the
27 Department's review and approval, transfer the person's tidal fish license to any person
28 who is on the list of primary candidates maintained under subsection (f) of this section.]
29 EXCEPT AS PROVIDED IN THIS PARAGRAPH, A PERSON MAY NOT TRANSFER OR
30 LOAN A LICENSE THAT IS ISSUED UNDER SUBSECTION (F) OF THIS SECTION.

31 (2) IF A LICENSEE IS UNABLE TO FISH DUE TO ILLNESS AND THE
32 NATURAL RESOURCES POLICE APPROVES A TRANSFER OF A LICENSE ISSUED
33 UNDER SUBSECTION (F) OF THIS SECTION, A LICENSEE MAY TRANSFER THE LICENSE
34 FOR NOT MORE THAN 10 DAYS.

35 [(j)] (H) (1) Notwithstanding the qualification criteria for a license and
36 authorization to engage in an activity under this section, licensees may renew any valid
37 existing authorizations on their licenses annually.

38 (2) (i) Application to renew a tidal fish license shall be made not later
39 than August 31 for the following license year.

7

1 (ii) The Department may not accept application for renewal after that
2 date unless:

3 1. Application is made by August 31 of the following license
4 year;

5 2. The applicant shows good cause why application was not
6 made by August 31 of the previous license year; and

7 3. A late fee of 50 percent is paid by the applicant in addition to
8 the license fee.

9 [(k)] (I) (1) In addition to any other penalty provided in this title, the
10 Department may suspend for a period of not less than 10 days nor more than 365 days a
11 person's entitlement to engage in a particular activity or activities under a tidal fish
12 license.

13 (2) During a period of suspension imposed by the Department, the person
14 penalized is not and shall not be authorized under any existing, renewed, or new tidal fish
15 license to engage in the particular activity or activities for which the suspension is
16 imposed.

17 (3) The following are grounds for suspension under this section:

18 (i) Making any false statement in an application for a tidal fish
19 license;

20 (ii) Conviction of a person for violations under this title so often as to
21 indicate an intent to disregard the fish and fisheries laws of the State, provided that
22 proceedings for revocation on this ground are based on no fewer than:

23 1. 3 convictions for violations occurring on separated days within
24 any 365 day period, of provisions under 1 subtitle of this title; or

25 2. 5 convictions for violations occurring on separated days within
26 any 365 day period, of any provisions under this title;

27 (iii) Failure to submit reports required by the provisions of this title or
28 by the Department pursuant to provisions of this title; or

29 (iv) Failure for a nonresident of the State to appear in court pursuant
30 to a citation issued by a Natural Resources police officer, or to any other process issued
31 by any court of Maryland, for violation of this title.

32 (4) [(i)] The following are grounds for revocation of a tidal fish license:

33 [1.] (I) Submitting a false report required by the provisions of
34 this title or by the Department pursuant to the provisions of this title;

35 [2.] (II) Suspension of the person's tidal fish license under
36 paragraph (1) of this subsection more than once in any 24-month period.

8

1 [(ii) If a person's license is revoked under this paragraph, upon
2 application for any new license under subsection (f) of this section, the person shall be
3 deemed a secondary candidate under subsection (f)(3) of this section.]

4 (5) For purposes of suspensions under subparagraph (ii) of paragraph (3) of
5 this subsection, the Department shall adopt as part of its procedural regulations:

6 (i) A schedule of points assigned to various offenses under this title;
7 and

8 (ii) A schedule of the maximum number of days that a license may be
9 suspended according to the number of points accumulated.

10 (6) The Department shall initiate any proceeding to suspend a tidal fish
11 license under this section not later than 6 months after the time for filing an appeal of the
12 3rd conviction under subsection (l)(3)(ii)1 of this section has passed or the time for filing
13 an appeal of the 5th conviction under subsection (l)(3)(ii)2 of this section has passed.

14 (7) Before the suspension of a tidal fish license under this section, the
15 Department shall hold a hearing upon not less than 10 days' notice to the licensee, except
16 that upon the failure of a nonresident of the State to appear in a court of this State as
17 required by any charging document accusing the person of committing any offense under
18 this title, in addition to any other appropriate action taken by the court or the
19 Department, the Department may suspend immediately and without hearing any license
20 issued to the person under this title.

21 [(l)] (J) A licensee or any person to whom a licensee has transferred a license
22 under subsection [(i)] (G) of this section shall have in possession the tidal fish license
23 whenever engaged in any licensed activity. The licensee or any person to whom a licensee
24 has transferred a license under subsection [(i)] (G) of this section shall allow any police
25 officer to inspect the license, to conduct searches as authorized in Subtitle 12, and to
26 inspect books, statements, and accounts as authorized in § 4-206(b).

27 [(m)] (K) The Department shall assign a permanent identification number to each
28 licensee. A licensee shall display the identification number on every vessel, vehicle, gear,
29 or place of business, as the Department may require by regulation.

30 [(n)] (L) The Department shall:

31 (1) Deposit to the credit of the Fisheries Research and Development Fund
32 all fees received for tidal fish licenses; and

33 (2) Use the funds received from the sale of licenses to catch striped bass for
34 enforcement purposes during the open season for catching striped bass.

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply
36 retroactively to any name placed on any list before the effective date of this Act. The
37 Department shall issue the license to each applicant who is eligible for the beginning of
38 the fish activity season for which the applicant applied for a license that begins after the
39 effective date of this Act.

40 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
41 October 1, 1996.

