

HOUSE BILL 1075
EMERGENCY BILL

Unofficial Copy
M2

1999 Regular Session
(91r2350)

ENROLLED BILL

-- Environmental Matters/Economic and Environmental Affairs --

Introduced by **Delegate Guns**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Natural Resources - Fishing Guide and Tidal Fish Licenses**

3 FOR the purpose of requiring a person to obtain a license from the Department of
4 Natural Resources before providing services as a freshwater fishing guide under
5 certain circumstances; requiring a certain applicant to possess certain fishing
6 licenses and stamps; requiring a certain application or renewal form and a
7 certain fee for a certain freshwater fishing guide permit; ~~requiring the~~
8 ~~Department to determine the waters in which a person may guide for certain~~
9 ~~fish; restricting a person with a certain freshwater fishing guide license to guide~~
10 ~~only in tidal waters designated by the Department; providing for the issuance of~~
11 ~~a certain license subject to certain conditions; altering the circumstances under~~
12 ~~which a person may transfer a tidal fish license or authorization to certain~~
13 ~~persons;~~ requiring the Department to adopt certain regulations; authorizing the
14 Department to suspend, revoke, or refuse to issue a certain license under certain
15 circumstances; making stylistic changes; ~~providing for the termination of a~~
16 ~~certain portion of this Act; providing for the application of certain provisions of~~
17 ~~this Act; making this Act an emergency measure;~~ and generally relating to

1 fishing guide licenses.

2 BY repealing and reenacting, with amendments,

3 Article - Natural Resources
4 Section 4-210 and 4-701(i)(2)

5 Annotated Code of Maryland
6 (1997 Replacement Volume and 1998 Supplement)

7 BY adding to

8 Article - Natural Resources
9 Section 4-210.1

10 Annotated Code of Maryland
11 (1997 Replacement Volume and 1998 Supplement)

12 BY repealing and reenacting, without amendments,

13 Article - Natural Resources
14 Section 4-701(a) ~~and (d), (b), (d), and (i)(1)~~

15 Annotated Code of Maryland
16 (1997 Replacement Volume and 1998 Supplement)

17 BY adding to

18 Article - Natural Resources
19 Section 4-701(o)

20 Annotated Code of Maryland
21 (1997 Replacement Volume and 1998 Supplement)

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

24 **Article - Natural Resources**

25 4-210.

26 (a) Except for a person employed to operate a vessel for a master fishing guide
27 under [subsection (e) of this section] § 4-701(O), any person who desires to accept
28 direct or indirect consideration for providing services as a fishing guide shall obtain a
29 license.

30 (b) In addition to any license required by this section, a person may not
31 furnish any service as a fishing guide that requires operating a boat or vessel as part
32 of that service without first obtaining appropriate federal licenses to operate a vessel
33 carrying passengers for hire.

34 (c) A person who is required to be licensed under this section must have all
35 appropriate federal and State licenses in the person's possession whenever
36 performing services as a fishing guide.

1 (d) A commercial fishing guide shall be required to submit reports monthly on
2 forms provided by the Department.

3 (e) [(1) This subsection is applicable only to a person who, on April 1, 1997:

4 (i) Held a valid fishing guide license; and

5 (ii) Either:

6 1. Owned two or more vessels used to carry passengers for
7 fishing;

8 2. Owned or operated a federally licensed vessel of 50 tons or
9 more that was used to carry passengers for fishing; or

10 3. Owned or operated a marina from which 10 or more
11 vessels operate to carry passengers for fishing.

12 (2) A person who meets the requirements of paragraph (1) of this
13 subsection may obtain an annual master fishing guide license by:

14 (i) Making application on a form provided by the Department;

15 (ii) Supplying with the application proofs of ownership of the
16 required vessels; and

17 (iii) Paying the master fishing guide license fee set forth in §
18 4-701(d)(2)(i)1 of this title.

19 (3) A person holding a master fishing guide license may:

20 (i) Employ other persons to guide fishing parties on vessels owned
21 by the master fishing guide; and

22 (ii) Allow a person who holds a valid coast guard license to operate
23 a vessel to carry passengers for fishing from the marina owned or operated by the
24 master guide license holder authorized under paragraph (1)(i)3 of this subsection as
25 follows:

26 1. One person for 10 vessels;

27 2. Two persons for 11 to 20 vessels;

28 3. Three persons for 21 to 30 vessels;

29 4. Four persons for 31 to 40 vessels;

30 5. Five persons for 41 to 50 vessels; and

31 6. Six persons for 51 or more vessels.

1 (4) (i) The Department shall issue a number of copies of the master
2 fishing guide license corresponding to the number of vessels owned or operated by the
3 master fishing guide, with each copy bearing the registration number of one of the
4 vessels.

5 (ii) The master fishing guide shall ensure that when a vessel is
6 operated, the appropriate copy of the license is on board.

7 (5) If a master fishing guide employs another person to operate a vessel
8 to carry passengers for fishing, for purposes of the license suspension criteria in §
9 4-701(k) of this title, the master fishing guide shall be held responsible for any
10 violations committed by the person employed to operate the vessel.]

11 (1) THE SECRETARY MAY ESTABLISH BY REGULATION FIRST AID AND
12 SAFETY REQUIREMENTS WITH WHICH ALL LICENSED FISHING GUIDES SHALL
13 COMPLY.

14 (2) THE DEPARTMENT MAY SUSPEND, REVOKE, OR REFUSE TO ISSUE A
15 LICENSE FOR FAILURE TO COMPLY WITH THE TERMS OF THE LICENSE.

16 (F) THE DEPARTMENT MAY ISSUE A TIDAL FISH LICENSE UNDER § 4-701 OF
17 THIS SUBTITLE AND A FRESHWATER FISHING GUIDE LICENSE UNDER § 4-210.1 OF
18 THIS SUBTITLE.

19 4-210.1.

20 (A) A PERSON PROVIDING FISHING GUIDE SERVICES FOR COMPENSATION TO
21 A PERSON FISHING ~~PRIMARILY IN NONTIDAL FRESHWATER~~ FOR GAME AND
22 FRESHWATER FISH SHALL OBTAIN A FRESHWATER FISHING GUIDE LICENSE.

23 (B) AN APPLICANT FOR A LICENSE SHALL:

24 (1) SUBMIT TO THE DEPARTMENT AN APPLICATION ON THE FORM THAT
25 THE DEPARTMENT REQUIRES;

26 (2) PAY TO THE DEPARTMENT AN APPLICATION FEE OF \$20 FOR
27 RESIDENTS OR \$50 FOR NONRESIDENTS; AND

28 (3) POSSESS ANY NECESSARY FISHING LICENSES AND STAMPS.

29 (C) BEFORE A FRESHWATER FISHING GUIDE LICENSE EXPIRES, THE
30 LICENSEE MAY RENEW THE LICENSE FOR AN ADDITIONAL 1 YEAR TERM. THE
31 LICENSEE MAY RENEW A FRESHWATER FISHING GUIDE PERMIT IF THE LICENSEE:

32 (I) OTHERWISE IS ENTITLED TO HOLD THE LICENSE;

33 (II) SUBMITS TO THE DEPARTMENT A RENEWAL APPLICATION ON THE
34 FORM THAT THE DEPARTMENT REQUIRES; AND

35 (III) PAYS TO THE DEPARTMENT A RENEWAL FEE OF \$20 FOR RESIDENTS
36 OR \$50 FOR NONRESIDENTS.

1 (D) ~~(1)~~ ~~THE DEPARTMENT SHALL DETERMINE THE WATERS IN WHICH A~~
2 ~~PERSON MAY GUIDE FOR GAME AND FRESHWATER FISH.~~

3 ~~(2)~~ ~~NOTWITHSTANDING THE PROVISIONS OF §4-701 OF THIS SUBTITLE, A~~
4 ~~PERSON MAY GUIDE IN TIDAL WATERS OF THE STATE WITH ONLY A FRESHWATER~~
5 ~~FISHING GUIDE LICENSE IN TIDAL WATERS DESIGNATED BY THE DEPARTMENT.~~
6 BEGINNING JANUARY 1, 2000 THE DEPARTMENT MAY ISSUE A FRESHWATER FISHING
7 GUIDE LICENSE WHICH SHALL BE VALID FOR NOT MORE THAN 1 YEAR AND SHALL
8 EXPIRE ON DECEMBER 31 OF EACH YEAR FOLLOWING THE DATE OF ISSUANCE.

9 (E) THE FRESHWATER FISHING GUIDE LICENSE IS NOT VALID IN TIDAL
10 WATERS.

11 ~~(E)~~ (F) THE DEPARTMENT SHALL ADOPT REGULATIONS NECESSARY TO
12 IMPLEMENT THIS SECTION.

13 4-701.

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

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

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

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

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

23 (3) Except for a person receiving a license under subsection (i)(2)(ii) of this
24 section, the Department may not issue a tidal fish license to an individual who is
25 younger than 14 years of age.

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

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

32 (2) (i) On a tidal fish license, the Department may issue an
33 authorization for any of the following activities for which the indicated fee has been
34 paid.

35 (ii) The following annual fees for an authorization shall apply
36 regardless of when the license is issued or an activity is authorized:

- 1 1. To provide services as:
- 2 A. A fishing guide in the tidal waters of Maryland - \$50 for a
3 resident and \$100 for a nonresident; and
- 4 B. A master fishing guide, in addition to the fee under item A
5 of this item - \$50 per vessel
- 6 2. To catch for sale fish with equipment which is legal under
7 this title:
- 8 A. Finfish:
- 9 I. Hook and line only, anywhere: \$37.50
- 10 II. All other equipment: \$100
- 11 B. Crabs:
- 12 I. Up to 50 pots, trotlines, nets, dip nets, traps, pounds, and
13 scrapes: \$50
- 14 II. Over 50 pots, plus any other gear listed in item I of this
15 sub-sub-subparagraph: \$150
- 16 C. Clams - \$100
- 17 D. Oysters - \$250 for a dredge boat and \$50 for other than a
18 dredge boat
- 19 E. Conch, turtles, and lobster - \$50
- 20 F. For all activities in item 1A of this subparagraph and in
21 items A through E of this item, unlimited tidal fish - \$300
- 22 3. For one or two crew members employed under § 4-814 of
23 this title to enable a licensee to catch crabs under subparagraph (ii)2BII and F of this
24 paragraph with more than 300 pots, the licensee shall pay \$20 for each crew member.
- 25 4. Except for a licensee dealing in his own catch, for a person
26 to buy, process, pack, resell, market or otherwise deal in fish caught in the tidal
27 waters of Maryland, seafood dealer - \$150

28 (O) (1) THIS SUBSECTION APPLIES ONLY TO A PERSON WHO, ON APRIL 1,
29 1997:

- 30 (I) HELD A VALID FISHING GUIDE LICENSE; AND
- 31 (II) EITHER:

1 OWNED TWO OR MORE VESSELS USED TO CARRY
2 PASSENGERS FOR FISHING;

3 OWNED OR OPERATED A FEDERALLY LICENSED VESSEL
4 OF 50 TONS OR MORE THAT WAS USED TO CARRY PASSENGERS FOR FISHING; OR

5 OWNED OR OPERATED A MARINA FROM WHICH 10 OR
6 MORE VESSELS OPERATE TO CARRY PASSENGERS FOR FISHING.

7 (2) A PERSON WHO MEETS THE REQUIREMENTS OF PARAGRAPH (1) OF
8 THIS SUBSECTION MAY OBTAIN AN ANNUAL MASTER FISHING GUIDE LICENSE BY:

9 (I) FILING AN APPLICATION ON A FORM PROVIDED BY THE
10 DEPARTMENT;

11 (II) SUPPLYING WITH THE APPLICATION PROOFS OF OWNERSHIP
12 OF THE REQUIRED VESSELS; AND

13 (III) PAYING THE MASTER FISHING GUIDE LICENSE FEE SET FORTH
14 IN § 4-701(D)(2)(II)1 OF THIS TITLE.

15 (3) A PERSON HOLDING A MASTER FISHING GUIDE LICENSE MAY:

16 (I) EMPLOY OTHER PERSONS TO GUIDE FISHING PARTIES ON
17 VESSELS OWNED BY THE MASTER FISHING GUIDE; AND

18 (II) ALLOW A PERSON WHO HOLDS A VALID COAST GUARD LICENSE
19 TO OPERATE A VESSEL TO CARRY PASSENGERS FOR FISHING FROM THE MARINA
20 OWNED OR OPERATED BY THE MASTER GUIDE LICENSE HOLDER AUTHORIZED
21 UNDER PARAGRAPH (1)(II)3 OF THIS SUBSECTION AS FOLLOWS:

22 1. ONE PERSON FOR 10 VESSELS;

23 2. TWO PERSONS FOR 11 TO 20 VESSELS;

24 3. THREE PERSONS FOR 21 TO 30 VESSELS;

25 4. FOUR PERSONS FOR 31 TO 40 VESSELS;

26 5. FIVE PERSONS FOR 41 TO 50 VESSELS; AND

27 6. SIX PERSONS FOR 51 OR MORE VESSELS.

28 (4) (I) THE DEPARTMENT SHALL ISSUE A NUMBER OF COPIES OF THE
29 MASTER FISHING GUIDE LICENSE CORRESPONDING TO THE NUMBER OF VESSELS
30 OWNED OR OPERATED BY THE MASTER FISHING GUIDE, WITH EACH COPY BEARING
31 THE REGISTRATION NUMBER OF ONE OF THE VESSELS.

32 (II) THE MASTER FISHING GUIDE SHALL ENSURE THAT WHEN A
33 VESSEL IS OPERATED, THE APPROPRIATE COPY OF THE LICENSE IS ON BOARD.

1 (5) IF A MASTER FISHING GUIDE EMPLOYS ANOTHER PERSON TO
2 OPERATE A VESSEL TO CARRY PASSENGERS FOR FISHING, FOR PURPOSES OF THE
3 LICENSE SUSPENSION CRITERIA IN § 4-701(K) OF THIS TITLE, THE MASTER FISHING
4 GUIDE SHALL BE HELD RESPONSIBLE FOR ANY VIOLATIONS COMMITTED BY THE
5 PERSON EMPLOYED TO OPERATE THE VESSEL.

6 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
7 read as follows:

8 Article - Natural Resources

9 4-701.

10 (i) (1) A license or authorization may be transferred only under the
11 provisions of this subsection.

12 (2) The Department shall review and may approve the permanent
13 transfer of a license or an authorization to a person who is the licensee's spouse,
14 daughter, son, stepchild, grandchild, step grandchild, parent, sister, brother,
15 grandparent, father-in-law, mother-in-law, son-in-law, daughter-in-law,
16 sister-in-law, or brother-in-law, and only:

17 (i) If the licensee makes application to the Department requesting
18 transfer and the transferee has paid the fee for the license or authorization; or

19 (ii) Upon death of the licensee, if the licensee OR AN AUTHORIZED
20 REPRESENTATIVE OF THE LICENSEE INDICATES OR had indicated that person's name
21 [on the license application on file with] TO the Department.

22 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act
23 shall be construed retroactively and shall be applied to and interpreted to affect a
24 license or authorization in existence on March 1, 1999. Section 2 of this Act shall
25 remain effective until December 31, 1999, and, at the end of December 31, 1999, with
26 no further action required by the General Assembly, Section 2 of this Act shall be
27 abrogated and of no further force and effect.

28 SECTION 2. 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act
29 shall take effect July 1, 1999.

30 SECTION 5. AND BE IT FURTHER ENACTED, That this Act is an emergency
31 measure, is necessary for the immediate preservation of the public health and safety,
32 has been passed by a ye and nay vote supported by three-fifths of all the members
33 elected to each of the two Houses of the General Assembly, and shall take effect from
34 the date it is enacted.

