

HOUSE BILL 1305

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M3

2000 Regular Session  
(01r0365)

**ENROLLED BILL**

-- *Environmental Matters/Economic and Environmental Affairs* --

Introduced by **Delegates Hubbard and Schisler, Schisler, Weir, Redmer, Morhaim, Mohorovic, Cane, Klausmeier, Boutin, Baldwin, Frush, Owings, Hammen, Hurson, and Nathan-Pulliam**

Read and Examined by Proofreaders:

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Proofreader.

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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 **Ballast Water Management - Reporting and Prohibition**

3 FOR the purpose of requiring the Department of the Environment to adopt certain  
4 guidelines relating to vessel ballast water management; requiring certain ~~vessel~~  
5 ~~operators~~ persons to complete and return a certain form relating to vessel  
6 ballast water management; specifying that certain violations are crimes, subject  
7 to certain penalties including fines and imprisonment for certain periods;  
8 stating findings of the General Assembly; defining certain terms; requesting the  
9 Governor to coordinate certain activities and meet with certain persons for  
10 certain purposes; and generally relating to ballast water management in waters  
11 of the State.

12 BY adding to

13 Article - Environment

14 Section 5-5A-01 through 5-5A-08 to be under the new subtitle "Subtitle 5A.

1 Ballast Water Management"  
2 Annotated Code of Maryland  
3 (1996 Replacement Volume and 1999 Supplement)

4 BY repealing and reenacting, without amendments,  
5 Article - Environment  
6 Section 5-1301  
7 Annotated Code of Maryland  
8 (1996 Replacement Volume and 1999 Supplement)

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

11 **Article - Environment**

12 **SUBTITLE 5A. BALLAST WATER MANAGEMENT.**

13 5-5A-01.

14 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
15 INDICATED.

16 (B) "BALLAST WATER" MEANS ANY WATER AND MATTER TAKEN ON BOARD A  
17 VESSEL TO CONTROL OR MAINTAIN TRIM, DRAFT, STABILITY, OR STRESSES OF THE  
18 VESSEL, WITHOUT REGARD TO THE MANNER IN WHICH IT IS CARRIED.

19 (C) "FEDERAL GUIDELINES" MEANS THE PROVISIONS OF 33 C.F.R. PART 151,  
20 SUBPART D, "BALLAST WATER MANAGEMENT FOR CONTROL OF NONINDIGENOUS  
21 SPECIES".

22 (D) "STATE GUIDELINES" MEANS PROCEDURES FOR BALLAST WATER  
23 MANAGEMENT THAT ARE CONSISTENT WITH FEDERAL GUIDELINES.

24 ~~(D)~~ (E) "VESSEL" MEANS A SELF-PROPELLED SHIP IN COMMERCE OF THREE  
25 HUNDRED GROSS TONS OR MORE.

26 5-5A-02.

27 THE GENERAL ASSEMBLY FINDS THAT:

28 (1) THE WATERS OF THE STATE ARE A PRECIOUS, IRREPLACEABLE  
29 RESOURCE ESSENTIAL TO THE ENVIRONMENT, COMMERCE, AND RECREATION OF  
30 CITIZENS AND TOURISTS OF THE STATE;

31 (2) NONINDIGENOUS AQUATIC SPECIES INTRODUCED INTO WATERS OF  
32 THE UNITED STATES FROM BALLAST WATER HAVE CAUSED TREMENDOUS  
33 ENVIRONMENTAL AND ECOLOGICAL DAMAGE, DISPLACING NATIVE SPECIES,  
34 DEGRADING WATER QUALITY, AND INTERFERING WITH COMMERCE, INCLUDING THE

1 ZEBRA MUSSEL BROUGHT INTO THE GREAT LAKES AND THE UPPER SUSQUEHANNA  
2 RIVER;

3 (3) BALLAST WATER PRACTICES OF COMMERCIAL SHIPPING VESSELS  
4 MAY CAUSE IRREVERSIBLE DAMAGE TO WATERS OF THE STATE; AND

5 (4) PROTECTIVE MEASURES AGAINST THE INTRODUCTION OF  
6 NONINDIGENOUS AQUATIC SPECIES FROM BALLAST WATER ARE NECESSARY TO  
7 MINIMIZE EXPOSURE OF THE WATERS OF THE STATE TO UNWANTED  
8 CONTAMINATION AND DAMAGE CAUSED BY THESE SPECIES.

9 5-5A-03.

10 THIS SUBTITLE APPLIES TO ALL VESSELS CARRYING BALLAST WATER INTO THE  
11 WATERS OF THE STATE FROM A VOYAGE DESTINED FOR A MARYLAND PORT, EXCEPT:

12 (1) A VESSEL OF THE UNITED STATES DEPARTMENT OF DEFENSE OR  
13 UNITED STATES COAST GUARD SUBJECT TO THE REQUIREMENTS OF § 1103 OF THE  
14 NATIONAL INVASIVE SPECIES ACT OF 1996, OR ANY VESSEL OF THE ARMED FORCES,  
15 AS DEFINED IN 33 U.S.C. ~~§ 1352(A)(14)~~ § 1322(A)(14), THAT IS SUBJECT TO THE UNIFORM  
16 NATIONAL DISCHARGE STANDARDS FOR VESSELS OF THE ARMED FORCES UNDER 33  
17 U.S.C. § 1322(N); OR

18 (2) A VESSEL:

19 (I) THAT DISCHARGES BALLAST WATER OR SEDIMENTS ONLY AT  
20 THE LOCATION WHERE THE BALLAST WATER OR SEDIMENTS ORIGINATED, IF THE  
21 BALLAST WATER OR SEDIMENTS DO NOT MIX WITH BALLAST WATER OR SEDIMENTS  
22 FROM AREAS OTHER THAN OPEN SEA WATERS; OR

23 (II) THAT DOES NOT DISCHARGE BALLAST WATER IN WATERS OF  
24 THE STATE.

25 5-5A-04.

26 (A) IN ORDER TO PREVENT THE INTRODUCTION AND SPREAD OF AQUATIC  
27 NUISANCE SPECIES INTO ANY RIVER, ESTUARY, BAY, OR COASTAL AREA THROUGH  
28 THE EXCHANGE OF BALLAST WATER OF VESSELS BEFORE ENTERING THE  
29 CHESAPEAKE BAY, THE CHESAPEAKE AND DELAWARE CANAL, AND OTHER WATERS  
30 OF THE STATE, THE DEPARTMENT SHALL ADOPT, BY REGULATION:

31 (1) THE FEDERAL GUIDELINES, FOR VESSELS ENTERING MARYLAND  
32 WATERS FROM OUTSIDE THE UNITED STATES EXCLUSIVE ECONOMIC ZONE; AND

33 (2) STATE GUIDELINES FOR BALLAST WATER MANAGEMENT THAT ARE  
34 CONSISTENT WITH THE FEDERAL GUIDELINES, FOR OTHER VESSELS ENTERING  
35 MARYLAND WATERS.

1 (B) NOTHING IN THE GUIDELINES ADOPTED UNDER THIS SECTION MAY BE  
2 CONSTRUED TO REQUIRE A VESSEL TO OPERATE IN A MANNER THAT MAY THREATEN  
3 THE SAFETY OF THE VESSEL OR ITS CREW OR PASSENGERS.

4 5-5A-05.

5 THE DEPARTMENT SHALL:

6 (1) ADOPT BALLAST WATER CONTROL REPORT FORMS, CONSISTENT  
7 WITH THE FORM ADOPTED BY THE UNITED STATES COAST GUARD, TO MONITOR  
8 COMPLIANCE WITH THE FEDERAL AND STATE GUIDELINES;

9 (2) ASSIST WORK COOPERATIVELY WITH THE UNITED STATES COAST  
10 GUARD IN DISTRIBUTING, THE MARYLAND PORT ADMINISTRATION, AND THE  
11 SHIPPING INDUSTRY TO ASSURE DISTRIBUTION OF THESE FORMS TO VESSELS; AND

12 (3) DIRECT RETURN OF THE FORMS TO THE DEPARTMENT AND TO THE  
13 NATIONAL BALLAST WATER INFORMATION CLEARINGHOUSE OF THE SMITHSONIAN  
14 ENVIRONMENTAL RESEARCH CENTER.

15 5-5A-06.

16 AS A CONDITION OF USE OF THE WATERS OF THE STATE, THE OPERATOR, ~~OR AN~~  
17 A SHIPPING AGENT ACTING ON BEHALF OF THE OPERATOR, OF EACH VESSEL THAT IS  
18 SUBJECT TO THIS SUBTITLE SHALL COMPLETE AND RETURN A BALLAST WATER  
19 CONTROL REPORT FORM IN ACCORDANCE WITH INSTRUCTIONS PROVIDED WITH THE  
20 FORM.

21 5-5A-07.

22 ~~A PERSON~~ A VESSEL OPERATOR, EITHER DIRECTLY OR THROUGH A SHIPPING  
23 AGENT, WHO FAILS TO COMPLETE AND RETURN A BALLAST WATER CONTROL  
24 REPORT FORM AS REQUIRED BY § 5-5A-06 OF THIS SUBTITLE IS GUILTY OF A  
25 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$500.

26 5-5A-08.

27 A PERSON WHO, KNOWINGLY AND WITH AN INTENT TO DECEIVE, FAILS TO  
28 COMPLETE AND RETURN, OR FALSIFIES, A BALLAST WATER CONTROL REPORT FORM  
29 UNDER § 5-5A-06 OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON  
30 CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT  
31 EXCEEDING \$5,000 OR BOTH.

32 5-1301.

33 (a) Any person who violates any provision of this title is guilty of a  
34 misdemeanor. Upon conviction in a court of competent jurisdiction, unless another  
35 penalty is specifically provided elsewhere in this title, the person is subject to a fine  
36 not exceeding \$500, with costs imposed in the discretion of the court. Every fine and  
37 cost shall be paid in accordance with Article 38, § 4 of the Code.

1 (b) Any person found guilty of a second or subsequent violation of any  
2 provision of this title in a court of competent jurisdiction, unless another penalty is  
3 specifically provided elsewhere in this title, is subject to a fine not exceeding \$1,000 or  
4 imprisonment not exceeding 1 year or both with costs imposed in the discretion of the  
5 court. For the purpose of this subsection, a second or subsequent violation is a  
6 violation which has occurred within 2 years of any prior violation of this title.

7 (c) In addition to any administrative penalty provided in this title, a violation  
8 of any regulation or restriction adopted by any unit within the Department of the  
9 Environment pursuant to the provisions of this title is a misdemeanor and is  
10 punishable as provided in subsections (a) and (b) of this section.

11 SECTION 2. AND BE IT FURTHER ENACTED, That the Governor of  
12 Maryland is requested to:

13 (a) coordinate with neighboring states and with the United States Coast  
14 Guard, the Smithsonian Environmental Research Center, and with other appropriate  
15 federal agencies in order to provide necessary information on current ballast water  
16 management practices; and

17 (b) meet with the Governors of the Commonwealths of Virginia and  
18 Pennsylvania, and of the State of Delaware, and with the federal agencies, in order to  
19 encourage those states and agencies to:

20 (1) develop uniform standards for ballast water management and  
21 reporting for vessels entering State waters from other ports inside and outside the  
22 United States Exclusive Economic Zone;

23 (2) cooperate with the State of Maryland and with federal agencies,  
24 including the United States Coast Guard and the Smithsonian Environmental  
25 Research Center, in developing information and policies to protect the Chesapeake  
26 Bay and other State waters from nonindigenous species introduction through  
27 improper ballast water management practices; and

28 (3) adopt legislation implementing those standards and policies to  
29 protect the waters of the Chesapeake Bay and the states from the introduction of  
30 nonindigenous species through ballast water discharge.

31 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
32 October 1, 2000.

