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By: **Delegates Hubbard and Schisler**

Introduced and read first time: February 18, 2000

Assigned to: Rules and Executive Nominations

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A BILL ENTITLED

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

11 BY adding to

12 Article - Environment

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

14 Ballast Water Management"

15 Annotated Code of Maryland

16 (1996 Replacement Volume and 1999 Supplement)

17 BY repealing and reenacting, without amendments,

18 Article - Environment

19 Section 5-1301

20 Annotated Code of Maryland

21 (1996 Replacement Volume and 1999 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

23 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Environment**

## 2 SUBTITLE 5A. BALLAST WATER MANAGEMENT.

3 5-5A-01.

4 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
5 INDICATED.6 (B) "BALLAST WATER" MEANS ANY WATER AND MATTER TAKEN ON BOARD A  
7 VESSEL TO CONTROL OR MAINTAIN TRIM, DRAFT, STABILITY, OR STRESSES OF THE  
8 VESSEL, WITHOUT REGARD TO THE MANNER IN WHICH IT IS CARRIED.9 (C) "FEDERAL GUIDELINES" MEANS THE PROVISIONS OF 33 C.F.R. PART 151,  
10 SUBPART D, "BALLAST WATER MANAGEMENT FOR CONTROL OF NONINDIGENOUS  
11 SPECIES".12 (D) "VESSEL" MEANS A SELF-PROPELLED SHIP IN COMMERCE OF THREE  
13 HUNDRED GROSS TONS OR MORE.

14 5-5A-02.

15 THE GENERAL ASSEMBLY FINDS THAT:

16 (1) THE WATERS OF THE STATE ARE A PRECIOUS, IRREPLACEABLE  
17 RESOURCE ESSENTIAL TO THE ENVIRONMENT, COMMERCE, AND RECREATION OF  
18 CITIZENS AND TOURISTS OF THE STATE;19 (2) NONINDIGENOUS AQUATIC SPECIES INTRODUCED INTO WATERS OF  
20 THE UNITED STATES FROM BALLAST WATER HAVE CAUSED TREMENDOUS  
21 ENVIRONMENTAL AND ECOLOGICAL DAMAGE, DISPLACING NATIVE SPECIES,  
22 DEGRADING WATER QUALITY, AND INTERFERING WITH COMMERCE, INCLUDING THE  
23 ZEBRA MUSSEL BROUGHT INTO THE GREAT LAKES AND THE UPPER SUSQUEHANNA  
24 RIVER;25 (3) BALLAST WATER PRACTICES OF COMMERCIAL SHIPPING VESSELS  
26 MAY CAUSE IRREVERSIBLE DAMAGE TO WATERS OF THE STATE; AND27 (4) PROTECTIVE MEASURES AGAINST THE INTRODUCTION OF  
28 NONINDIGENOUS AQUATIC SPECIES FROM BALLAST WATER ARE NECESSARY TO  
29 MINIMIZE EXPOSURE OF THE WATERS OF THE STATE TO UNWANTED  
30 CONTAMINATION AND DAMAGE CAUSED BY THESE SPECIES.

31 5-5A-03.

32 THIS SUBTITLE APPLIES TO ALL VESSELS CARRYING BALLAST WATER INTO THE  
33 WATERS OF THE STATE FROM A VOYAGE DESTINED FOR A MARYLAND PORT, EXCEPT:34 (1) A VESSEL OF THE UNITED STATES DEPARTMENT OF DEFENSE OR  
35 UNITED STATES COAST GUARD SUBJECT TO THE REQUIREMENTS OF § 1103 OF THE

1 NATIONAL INVASIVE SPECIES ACT OF 1996, OR ANY VESSEL OF THE ARMED FORCES,  
2 AS DEFINED IN 33 U.S.C. § 1352(A)(14), THAT IS SUBJECT TO THE UNIFORM NATIONAL  
3 DISCHARGE STANDARDS FOR VESSELS OF THE ARMED FORCES UNDER 33 U.S.C. §  
4 1322(N); OR

5 (2) A VESSEL:

6 (I) THAT DISCHARGES BALLAST WATER OR SEDIMENTS ONLY AT  
7 THE LOCATION WHERE THE BALLAST WATER OR SEDIMENTS ORIGINATED, IF THE  
8 BALLAST WATER OR SEDIMENTS DO NOT MIX WITH BALLAST WATER OR SEDIMENTS  
9 FROM AREAS OTHER THAN OPEN SEA WATERS; OR

10 (II) THAT DOES NOT DISCHARGE BALLAST WATER IN WATERS OF  
11 THE STATE.

12 5-5A-04.

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

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

20 (2) STATE GUIDELINES FOR BALLAST WATER MANAGEMENT THAT ARE  
21 CONSISTENT WITH THE FEDERAL GUIDELINES, FOR OTHER VESSELS ENTERING  
22 MARYLAND WATERS.

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

26 5-5A-05.

27 THE DEPARTMENT SHALL:

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

31 (2) ASSIST THE UNITED STATES COAST GUARD IN DISTRIBUTING THESE  
32 FORMS TO VESSELS; AND

33 (3) DIRECT RETURN OF THE FORMS TO THE DEPARTMENT AND TO THE  
34 NATIONAL BALLAST WATER INFORMATION CLEARINGHOUSE OF THE SMITHSONIAN  
35 ENVIRONMENTAL RESEARCH CENTER.

1 5-5A-06.

2 AS A CONDITION OF USE OF THE WATERS OF THE STATE, THE OPERATOR OF  
3 EACH VESSEL THAT IS SUBJECT TO THIS SUBTITLE SHALL COMPLETE AND RETURN A  
4 BALLAST WATER CONTROL REPORT FORM IN ACCORDANCE WITH INSTRUCTIONS  
5 PROVIDED WITH THE FORM.

6 5-5A-07.

7 A PERSON WHO FAILS TO COMPLETE AND RETURN A BALLAST WATER CONTROL  
8 REPORT FORM AS REQUIRED BY § 5-5A-06 OF THIS SUBTITLE IS GUILTY OF A  
9 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$500.

10 5-5A-08.

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

16 5-1301.

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

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

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

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

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

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

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

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

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

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