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

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 25, 2000

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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.  
15 Ballast Water Management"  
16 Annotated Code of Maryland  
17 (1996 Replacement Volume and 1999 Supplement)

18 BY repealing and reenacting, without amendments,  
19 Article - Environment  
20 Section 5-1301  
21 Annotated Code of Maryland  
22 (1996 Replacement Volume and 1999 Supplement)

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

3 **Article - Environment**

4 SUBTITLE 5A. BALLAST WATER MANAGEMENT.

5 5-5A-01.

6 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
7 INDICATED.

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

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

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

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

18 5-5A-02.

19 THE GENERAL ASSEMBLY FINDS THAT:

20 (1) THE WATERS OF THE STATE ARE A PRECIOUS, IRREPLACEABLE  
21 RESOURCE ESSENTIAL TO THE ENVIRONMENT, COMMERCE, AND RECREATION OF  
22 CITIZENS AND TOURISTS OF THE STATE;

23 (2) NONINDIGENOUS AQUATIC SPECIES INTRODUCED INTO WATERS OF  
24 THE UNITED STATES FROM BALLAST WATER HAVE CAUSED TREMENDOUS  
25 ENVIRONMENTAL AND ECOLOGICAL DAMAGE, DISPLACING NATIVE SPECIES,  
26 DEGRADING WATER QUALITY, AND INTERFERING WITH COMMERCE, INCLUDING THE  
27 ZEBRA MUSSEL BROUGHT INTO THE GREAT LAKES AND THE UPPER SUSQUEHANNA  
28 RIVER;

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

31 (4) PROTECTIVE MEASURES AGAINST THE INTRODUCTION OF  
32 NONINDIGENOUS AQUATIC SPECIES FROM BALLAST WATER ARE NECESSARY TO  
33 MINIMIZE EXPOSURE OF THE WATERS OF THE STATE TO UNWANTED  
34 CONTAMINATION AND DAMAGE CAUSED BY THESE SPECIES.

1 5-5A-03.

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

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

10 (2) A VESSEL:

11 (I) THAT DISCHARGES BALLAST WATER OR SEDIMENTS ONLY AT  
12 THE LOCATION WHERE THE BALLAST WATER OR SEDIMENTS ORIGINATED, IF THE  
13 BALLAST WATER OR SEDIMENTS DO NOT MIX WITH BALLAST WATER OR SEDIMENTS  
14 FROM AREAS OTHER THAN OPEN SEA WATERS; OR

15 (II) THAT DOES NOT DISCHARGE BALLAST WATER IN WATERS OF  
16 THE STATE.

17 5-5A-04.

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

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

25 (2) STATE GUIDELINES FOR BALLAST WATER MANAGEMENT THAT ARE  
26 CONSISTENT WITH THE FEDERAL GUIDELINES, FOR OTHER VESSELS ENTERING  
27 MARYLAND WATERS.

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

31 5-5A-05.

32 THE DEPARTMENT SHALL:

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

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

4           (3)     DIRECT RETURN OF THE FORMS TO THE DEPARTMENT AND TO THE  
5 NATIONAL BALLAST WATER INFORMATION CLEARINGHOUSE OF THE SMITHSONIAN  
6 ENVIRONMENTAL RESEARCH CENTER.

7 5-5A-06.

8     AS A CONDITION OF USE OF THE WATERS OF THE STATE, THE OPERATOR, OR AN  
9 AGENT ACTING ON BEHALF OF THE OPERATOR, OF EACH VESSEL THAT IS SUBJECT  
10 TO THIS SUBTITLE SHALL COMPLETE AND RETURN A BALLAST WATER CONTROL  
11 REPORT FORM IN ACCORDANCE WITH INSTRUCTIONS PROVIDED WITH THE FORM.

12 5-5A-07.

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

16 5-5A-08.

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

22 5-1301.

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

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

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

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

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

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

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

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

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

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