

HOUSE BILL 94

Unofficial Copy  
M1

2002 Regular Session  
2lr0066

(PRE-FILED)

---

By: **Chairman, Environmental Matters Committee (Departmental - Natural Resources)**

Requested: November 7, 2001  
Introduced and read first time: January 9, 2002  
Assigned to: Environmental Matters

---

Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: February 19, 2002

---

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Natural Resources - Fishing Licenses and Authorizations - Suspension or**  
3 **Revocation**

4 FOR the purpose of altering the criteria for suspension or revocation of certain fishing  
5 licenses and authorizations under certain circumstances; repealing a certain  
6 minimum suspension period; authorizing the Department of Natural Resources  
7 to ~~suspend or~~ revoke certain fishing licenses for certain fraudulent conduct;  
8 ~~establishing certain hearing procedures~~ providing for a certain hearing;  
9 providing for certain additional penalties; ~~establishing certain procedures for~~  
10 ~~the immediate suspension of a certain fishing license under certain~~  
11 ~~circumstances~~; and generally relating to the suspension or revocation of fishing  
12 licenses and authorizations.

13 BY repealing and reenacting, with amendments,  
14 Article - Natural Resources  
15 Section 4-701  
16 Annotated Code of Maryland  
17 (2000 Replacement Volume and 2001 Supplement)

18 ~~BY adding to~~  
19 ~~Article - Natural Resources~~  
20 ~~Section 4-1210~~  
21 ~~Annotated Code of Maryland~~  
22 ~~(2000 Replacement Volume and 2001 Supplement)~~

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

3 **Article - Natural Resources**

4 4-701.

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

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

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

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

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

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

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

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

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

24 (d) (1) The Department may issue no more than one authorization to a  
25 person to engage in each activity under paragraph (2)(ii)1 and 2 of this subsection  
26 during a license year.

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

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

32 1. To provide services as:

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

- 1 B. A master fishing guide, in addition to the fee under item A  
 2 of this item - \$50 per vessel
- 3 2. To catch for sale fish with equipment which is legal under  
 4 this title:
- 5 A. Finfish:
- 6 I. Hook and line only, anywhere: \$37.50
- 7 II. All other equipment: \$100
- 8 B. Crabs:
- 9 I. Up to 50 pots, trotlines, nets, dip nets, traps, pounds, and  
 10 scrapes: \$50
- 11 II. Over 50 pots, plus any other gear listed in item I of this  
 12 sub-sub-subparagraph: \$150
- 13 C. Clams - \$100
- 14 D. Oysters - \$250 for a dredge boat and \$50 for other than a  
 15 dredge boat
- 16 E. Conch, turtles, and lobster - \$50
- 17 F. For all activities in item 1 A of this subparagraph and in  
 18 items A through E of this item, unlimited tidal fish - \$300
- 19 3. For one or two crew members employed under § 4-814 of  
 20 this title to enable a licensee to catch crabs under subparagraph (ii)2 B II and F of this  
 21 paragraph with more than 300 pots, the licensee shall pay \$20 for each crew member.
- 22 4. Except for a licensee dealing in his own catch, for a person  
 23 to buy, process, pack, resell, market or otherwise deal in fish caught in the tidal  
 24 waters of Maryland, seafood dealer - \$150
- 25 (e) (1) To catch striped bass for sale:
- 26 (i) A licensee authorized under subsection (d)(2)(ii)2 A of this  
 27 section shall pay an annual surcharge of \$200; or
- 28 (ii) A licensee authorized under subsection (d)(2)(ii)2 F of this  
 29 section shall pay with the license fee an annual surcharge of \$100.
- 30 (2) A person may not catch oysters for sale without possessing a valid  
 31 license under this section and paying an annual surcharge of \$300 which shall be  
 32 used by the Department only for oyster repletion activities.

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

6           (4)       (i)       1.       In this paragraph, "fishing activities" means those  
7 activities that are directly related to catching fish.

8                               2.       "Fishing activities" does not include the activities of  
9 buying, selling, processing, transporting, exporting, or similarly dealing in fish.

10                       (ii)       The Department shall assess annually on every nonresident  
11 license applicant for the applicant's fishing activities under Subtitles 7, 8, and 9 of  
12 this title, in addition to the normal license fees imposed by this subsection, a  
13 surcharge which cumulatively for the license year, shall be the greater of:

14                               1.       An amount equal to the difference between the total fees  
15 charged to a Maryland resident engaged in like fishing activities in the state of  
16 residence of the nonresident applicant and the total of normal license fees for fishing  
17 activities in Maryland; or

18                               2.       \$350.

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

24       (g)       (1)       Notwithstanding any other provision of this section, the Department  
25 may issue an apprenticeship permit for any activity under subsection (d)(2)(ii)1 or 2 of  
26 this section to a person who currently resides and has resided for at least 5 years on  
27 an island in the State that is at least 3 miles from the mainland.

28           (2)       The Department shall set by regulation targets for the number of  
29 tidal fish license authorizations under subsection (d)(2)(ii) of this section to be the  
30 number issued between September 1, 1998 and March 31, 1999. The Department may  
31 modify by regulation the target number of authorizations based on:

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

33                       (ii)       Recommendations of fishery management plans adopted by the  
34 Department, the Chesapeake Bay Program, the Atlantic States Marine Fisheries  
35 Commission, the Mid-Atlantic Fisheries Management Council, or any other  
36 appropriate management body;

37                       (iii)       The number of people historically participating;

1 (iv) Target species, size, number, weight, incidental catch, total  
2 biomass, annual harvest, mortality rates, and other factors which are necessary and  
3 appropriate; and

4 (v) The number of authorizations relinquished to the Department  
5 under subsection (j-1) of this section.

6 (3) (i) The Department shall by regulation limit the total number of  
7 authorizations to fish for striped bass to 1,231 participants in the commercial fishery  
8 and 499 participants in the charter boat fishery.

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

12 (iii) The Department shall provide in its regulations for the  
13 allocation of any available quota on a monthly basis to assure that all areas of the  
14 State have ample opportunity to attain an equitable portion of the available quota.

15 (h) The Department shall issue a license authorizing participation in a  
16 particular fishing activity to a person who has completed the requirements of an  
17 apprenticeship under § 4-701.1 of this subtitle.

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

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

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

27 (ii) Upon death of the licensee, if the licensee or an authorized  
28 representative of the licensee indicates or had indicated that person's name to the  
29 Department.

30 (3) (i) The Department may approve a temporary transfer for not less  
31 than 30 days and not more than 90 days.

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

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

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

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

8 (5) (i) This paragraph applies only to:

9 1. A licensee who has held a valid tidal fish license in each of  
10 the three immediately preceding seasons; or

11 2. An authorized representative of a deceased licensee  
12 regardless of the number of seasons the deceased licensee held a valid tidal fish  
13 license.

14 (ii) The Department shall review and may approve a permanent  
15 transfer of a license or authorization under this paragraph to a person who has:

16 1. A. Purchased a vessel used for commercial fishing from  
17 the license holder; or

18 B. Purchased equipment and assets with a minimum value of  
19 \$2,000 and the commercial fishing business from the license holder;

20 2. Been a crew member for at least 2 years in any commercial  
21 fishery as certified by three tidal fish licensees;

22 3. Paid the fee for the license or authorization; and

23 4. Provided a notarized bill of sale.

24 (j) (1) Notwithstanding the qualification criteria for a license and  
25 authorization to engage in an activity under this section, licensees may renew any  
26 valid existing authorizations on their licenses annually.

27 (2) (i) Application to renew a tidal fish license shall be made not later  
28 than August 31, or the next business day in the instance that the Department is not  
29 open, for the following license year.

30 (ii) The Department may not accept application for renewal after  
31 that date, as stated in subparagraph (i) of this paragraph unless:

32 1. Application is made by March 31, or the next business day  
33 in the instance that the Department is not open, of the following license year;

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



1 (i) Submitting a false report required by the provisions of this title  
2 or by the Department pursuant to the provisions of this title; [or]

3 (ii) Suspension of the person's tidal fish license OR  
4 AUTHORIZATION under paragraph (1) of this subsection more than once in any  
5 24-month period[.];

6 (III) CONVICTION OF A PERSON FOR A VIOLATION UNDER THIS  
7 TITLE THAT INVOLVES FRAUDULENT REPRESENTATION; OR

8 (IV) WITHIN ANY 3-YEAR PERIOD, CONVICTION OF A PERSON FOR  
9 AT LEAST 5 VIOLATIONS OCCURRING ON SEPARATE DAYS.

10 (5) REVOCATION OF A PERSON'S TIDAL FISH LICENSE OR  
11 AUTHORIZATION SHALL BE FOR A MINIMUM OF A ~~1-YEAR~~ 6-MONTH PERIOD.  
12 APPLICATION FOR A TIDAL FISH LICENSE OR AUTHORIZATION BY A PERSON WHOSE  
13 LICENSE OR AUTHORIZATION HAS BEEN REVOKED UNDER THIS SUBTITLE IS  
14 SUBJECT TO THE PROVISIONS OF THIS SUBTITLE AND ANY REGULATIONS ADOPTED  
15 BY THE SECRETARY UNDER THE AUTHORITY OF THIS SUBTITLE.

16 (6) A PERSON WHOSE TIDAL FISH LICENSE OR AUTHORIZATION HAS  
17 BEEN REVOKED MAY NOT BE ISSUED A TIDAL FISH LICENSE OR RECEIVE THE  
18 TRANSFER OF A TIDAL FISH LICENSE FOR A PERIOD OF ~~1-YEAR~~ 6 MONTHS FROM THE  
19 DATE OF ANY REVOCATION OF A LICENSE OR AUTHORIZATION ISSUED UNDER THIS  
20 SECTION.

21 (7) ~~EXCEPT AS PROVIDED IN § 4-1210 OF THIS TITLE,~~ BEFORE THE  
22 DEPARTMENT TAKES ANY ACTION TO REVOKE A PERSON'S TIDAL FISH LICENSE OR  
23 AUTHORIZATION PURSUANT TO PARAGRAPH (4) OF THIS SUBSECTION, THE PERSON  
24 SHALL HAVE THE RIGHT TO A HEARING.

25 (8) THE PENALTIES IN THIS SUBTITLE SHALL BE IN ADDITION TO ANY  
26 OTHER PENALTIES AUTHORIZED UNDER § 4-1201 OF THIS TITLE REGARDING STRIPED  
27 BASS.

28 [(5)] (9) For purposes of suspensions under subparagraph (ii) of  
29 paragraph (3) of this subsection, the Department shall adopt as part of its procedural  
30 regulations:

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

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

35 [(6)] (10) The Department shall initiate any proceeding to suspend a tidal  
36 fish license under this section not later than 6 months after the time for filing an  
37 appeal of the 3rd conviction under paragraph (3)(i)1 of this subsection has passed or  
38 the time for filing an appeal of the 5th conviction under paragraph (3)(i)2 of this  
39 subsection has passed.

1            [(7)]    (11)    Before the suspension of a tidal fish license under this section,  
2 the Department shall hold a hearing upon not less than 10 days' notice to the licensee,  
3 except ~~{that} AS PROVIDED IN § 4-1210 OF THIS TITLE OR~~ upon the failure of a  
4 nonresident of the State to appear in a court of this State as required by any charging  
5 document accusing the person of committing any offense under this title, in addition  
6 to any other appropriate action taken by the court or the Department, the  
7 Department may suspend immediately and without hearing any license issued to the  
8 person under this title.

9            (l)            A licensee or any person to whom a licensee has transferred a license under  
10 subsection (i) of this section shall have in possession the tidal fish license and any  
11 valid application to transfer the commercial tidal fish license approved by the  
12 Department for a temporary transfer whenever engaged in any licensed activity. The  
13 licensee or any person to whom a licensee has transferred a license under subsection  
14 (i) of this section shall allow any police officer to inspect the license and any  
15 applicable application to transfer the commercial tidal fish license approved by the  
16 Department for a temporary transfer, to conduct searches as authorized in Subtitle 12  
17 of this title, and to inspect books, statements, and accounts as authorized in §  
18 4-206(b) of this title.

19            (m)            The Department shall assign a permanent identification number to each  
20 licensee. A licensee shall display the identification number on every vessel, vehicle,  
21 gear, or place of business, as the Department may require by regulation.

22            (n)            The Department shall:

23                    (1)            Deposit to the credit of the Fisheries Research and Development  
24 Fund all fees received for tidal fish licenses and apprenticeship permits; and

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

27            (o)            (1)            This subsection applies only to a person who, on April 1, 1997:

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

29                            (ii)            Either:

30    1.            Owned two or more vessels used to carry passengers for  
31 fishing;

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

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

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

1 (i) Filing an application on a form provided by the Department;

2 (ii) Supplying with the application proofs of ownership of the  
3 required vessels; and

4 (iii) Paying the master fishing guide license fee set forth in §  
5 4-701(d)(2)(ii)1 of this title.

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

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

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

13 1. One person for 10 vessels;

14 2. Two persons for 11 to 20 vessels;

15 3. Three persons for 21 to 30 vessels;

16 4. Four persons for 31 to 40 vessels;

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

18 6. Six persons for 51 or more vessels.

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

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

25 (5) If a master fishing guide employs another person to operate a vessel  
26 to carry passengers for fishing, for purposes of the license suspension criteria in  
27 subsection (k) of this section, the master fishing guide shall be held responsible for  
28 any violations committed by the person employed to operate the vessel.

29 (p) A commercial crabbing license shall identify either Sunday or Monday as  
30 the day on which the person who holds the license may not crab for commercial  
31 purposes.

32 ~~4-1210.~~

33 ~~(A) NOTWITHSTANDING THE PROVISIONS OF § 4-701(K) OF THIS TITLE AND~~  
34 ~~UPON THE FILING OF CERTIFIED DOCKET ENTRIES WITH THE DEPARTMENT BY THE~~

~~1 OFFICE OF THE ATTORNEY GENERAL EVIDENCING THAT A PERSON STANDS  
2 CONVICTED OF OR PLEADS GUILTY OR NOLO CONTENDERE TO FRAUDULENT  
3 CONDUCT IN ANY ACTIVITY AUTHORIZED BY THIS TITLE OR ANY REGULATIONS  
4 ADOPTED BY THE SECRETARY UNDER THE AUTHORITY OF THIS TITLE, THE  
5 DEPARTMENT MAY IMMEDIATELY SUSPEND ANY LICENSE ISSUED IN ACCORDANCE  
6 WITH THIS TITLE REGARDLESS OF ANY PENDING APPEAL OR OTHER PROCEEDING TO  
7 SET ASIDE A PLEA OR REVERSE A CONVICTION.~~

~~8 (B) AFTER COMPLETION OF THE APPELLATE PROCESS, IF THE CONVICTION  
9 HAS NOT BEEN REVERSED OR THE PLEA HAS NOT BEEN SET ASIDE WITH RESPECT TO  
10 FRAUDULENT CONDUCT, THE DEPARTMENT MAY REVOKE A LICENSE ISSUED IN  
11 ACCORDANCE WITH THIS TITLE.~~

~~12 (C) A LICENSEE HAS A RIGHT TO A HEARING FOR ANY LICENSE SUSPENDED  
13 OR REVOKED IN ACCORDANCE WITH THIS SUBTITLE.~~

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
15 effect October 1, 2002.