

SENATE BILL 580

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C2

2002 Regular Session
(21r0004)

ENROLLED BILL

-- Education, Health, and Environmental Affairs/Economic Matters --

Introduced by **Chairman, Education, Health, and Environmental Affairs
Committee (Departmental - Labor, Licensing and Regulation)**

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.

President.

CHAPTER _____

1 AN ACT concerning

2 **State Board of Docking Masters**

3 FOR the purpose of ~~altering the membership of the State Board of Docking Masters;~~
4 establishing a trainee docking master program; authorizing the Board to issue
5 certain limited docking master licenses; establishing certain limited license
6 qualifications and fees; altering the ~~hearing~~ provisions for certain disciplinary
7 actions by the Board; authorizing the Board to impose certain civil penalties;
8 defining certain terms; and generally relating to the State Board of Docking
9 Masters.

10 BY renumbering

11 Article - Business Occupations and Professions
12 Section 5.5-301 through 5.5-307 and the subtitle "Subtitle 3. Licensing";
13 5.5-401 through 5.5-405 and the subtitle "Subtitle 4. Employment and
14 Payment of Docking Masters"; 5.5-501 through 5.5-503 and the subtitle
15 "Subtitle 5. Prohibited Acts; Penalties"; 5.5-601 and 5.5-602 and the

1 subtitle "Subtitle 6. Short Title; Termination of Title", respectively
2 to be Section 5.5-401, 5.5-403, and 5.5-405 through 5.5-409 and the subtitle
3 "Subtitle 4. Licensing"; 5.5-501 through 5.5-505 and the subtitle "Subtitle
4 5. Employment and Payment of Docking Masters"; 5.5-601 through
5 5.5-603 and the subtitle "Subtitle 6. Prohibited Acts; Penalties"; 5.5-701
6 and 5.5-702 and the subtitle "Subtitle 7. Short Title; Termination of Title",
7 respectively
8 Annotated Code of Maryland
9 (2000 Replacement Volume and 2001 Supplement)

10 BY adding to
11 Article - Business Occupations and Professions
12 Section 5.5-301 through 5.5-306, inclusive, to be under the new subtitle
13 "Subtitle 3. Trainee Docking Masters"; 5.5-402 and 5.5-404
14 Annotated Code of Maryland
15 (2000 Replacement Volume and 2001 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article - Business Occupations and Professions
18 Section 5.5-101, ~~5.5-202(a)~~, and 5.5-206
19 Annotated Code of Maryland
20 (2000 Replacement Volume and 2001 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article - Business Occupations and Professions
23 Section 5.5-403, 5.5-406, 5.5-407, 5.5-408, and 5.5-602
24 Annotated Code of Maryland
25 (2000 Replacement Volume and 2001 Supplement)
26 (As enacted by Section 1 of this Act)

27 BY repealing and reenacting, without amendments,
28 Article - Business Occupations and Professions
29 Section 5.5-401, 5.5-405, and 5.5-409
30 Annotated Code of Maryland
31 (2000 Replacement Volume and 2001 Supplement)
32 (As enacted by Section 1 of this Act)

33 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
34 MARYLAND, That Section(s) 5.5-301 through 5.5-307 and the subtitle "Subtitle
35 3. Licensing"; 5.5-401 through 5.5-405 and the subtitle "Subtitle 4. Employment
36 and Payment of Docking Masters"; 5.5-501 through 5.5-503 and the subtitle "Subtitle
37 5. Prohibited Acts; Penalties"; 5.5-601 and 5.5-602 and the subtitle "Subtitle
38 6. Short Title; Termination of Title", respectively, of Article - Business Occupations
39 and Professions of the Annotated Code of Maryland be renumbered to be Section(s)
40 5.5-401, 5.5-403, and 5.5-405 through 5.5-409 and the subtitle "Subtitle

1 4. Licensing"; 5.5-501 through 5.5-505 and the subtitle "Subtitle 5. Employment
 2 and Payment of Docking Masters"; 5.5-601 through 5.5-603 and the subtitle "Subtitle
 3 6. Prohibited Acts; Penalties"; 5.5-701 and 5.5-702 and the subtitle "Subtitle
 4 7. Short Title; Termination of Title", respectively.

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

7 **Article - Business Occupations and Professions**

8 5.5-101.

9 (a) In this title the following words have the meanings indicated.

10 (b) (1) "Association" means an association of State licensed docking masters
 11 established by a majority of the individuals who satisfy the licensure requirements of
 12 this title on October 1, 2000.

13 (2) An individual who does not meet the licensure requirements of this
 14 title may not be a member of the Association.

15 (c) "Board" means the State Board of Docking Masters.

16 (d) "Docking master" means an individual who provides docking services.

17 (e) (1) "LICENSE" MEANS A DOCKING MASTER LICENSE ISSUED BY THE
 18 BOARD.

19 (2) "LICENSE", UNLESS THE CONTEXT REQUIRES OTHERWISE,
 20 INCLUDES A LIMITED DOCKING MASTER LICENSE.

21 (F) "Provide docking services" means:

22 (1) to maneuver a vessel during berthing or unberthing operations with
 23 tug assistance; or

24 (2) to shift a vessel within a port, with tug assistance.

25 ~~5.5-202.~~

26 ~~(a) (1) The Board consists of [5] 7 members.~~

27 ~~(2) Of the [5] 7 members of the Board:~~

28 ~~(i) 1 SHALL BE THE PRESIDENT OF THE ASSOCIATION;~~

29 ~~(ii) 2 shall be licensed docking masters;~~

30 ~~[(ii)] (iii) 1 shall be a representative of a towing boat company~~
 31 ~~serving the Port of Baltimore; [and]~~

1 (IV) 1 SHALL BE A MEMBER OF THE STEAMSHIP INDUSTRY SERVING
2 THE PORT OF BALTIMORE ACTIVELY EMPLOYING DOCKING MASTERS; AND

3 {(iii)} (V) 2 shall be consumer members.

4 (3) The Governor shall appoint each member UNDER PARAGRAPH (2)(II),
5 (III), (IV), AND (V) with the advice of the Secretary and the advice and consent of the
6 Senate.

7 5.5-206.

8 The Board shall receive all fees and other charges collectible under [§§ 5.5-304
9 and 5.5-305] §§ 5.5-406 AND 5.5-407 of this title.

10 SUBTITLE 3. TRAINEE DOCKING MASTERS.

11 5.5-301.

12 AN INDIVIDUAL SHALL BE APPOINTED BY THE BOARD BEFORE THE INDIVIDUAL
13 MAY SERVE AS A TRAINEE DOCKING MASTER.

14 5.5-302.

15 THE BOARD SHALL KEEP A LIST OF ALL APPLICANTS WHO QUALIFY TO BE
16 TRAINEE DOCKING MASTERS.

17 5.5-303.

18 TO BE INCLUDED ON THE LIST OF APPLICANTS WHO QUALIFY TO BE TRAINEE
19 DOCKING MASTERS, AN APPLICANT SHALL:

20 (1) BE AT LEAST 21 YEARS OLD;

21 (2) BE A CITIZEN OF THE UNITED STATES;

22 (3) PROVIDE THE BOARD WITH PROOF OF RECENT SATISFACTORY
23 COMPLETION OF THE PHYSICAL REQUIREMENTS FOR A FIRST-CLASS PILOT
24 LICENSE, AS DETERMINED BY THE U.S. COAST GUARD;

25 (4) AGREE TO PARTICIPATE IN A U.S. COAST GUARD APPROVED RANDOM
26 DRUG TESTING PROGRAM;

27 (5) POSSESS THE FOLLOWING U.S. COAST GUARD LICENSES AND
28 ACCREDITATIONS:

29 (I) A U.S. COAST GUARD ISSUED MASTERS LICENSE FOR STEAM OR
30 MOTOR VESSELS; AND

31 (II) UNLIMITED RADAR OBSERVER ENDORSEMENT;

1 (6) HAVE A MINIMUM OF 5 YEARS' EXPERIENCE IN THE MARITIME
2 INDUSTRY WORKING ON VESSELS IN THE DECK DEPARTMENT AS A LICENSED
3 MASTER OR MATE ON TUGS OR INSPECTED VESSELS, OF WHICH AT LEAST 2 YEARS'
4 EXPERIENCE SHALL BE OPERATING A SHIP ASSIST HARBOR TUG AS A LICENSED
5 MASTER;

6 (7) PASS ANY MENTAL OR PHYSICAL EXAMINATION THAT THE BOARD
7 REQUIRES TO VERIFY THAT THE APPLICANT IS MENTALLY AND PHYSICALLY
8 CAPABLE OF PROVIDING DOCKING SERVICES; AND

9 (8) MEET ANY OTHER REQUIREMENTS ESTABLISHED BY THE BOARD.

10 5.5-304.

11 TO QUALIFY AS AN APPLICANT FOR APPOINTMENT BY THE BOARD AS A
12 TRAINEE DOCKING MASTER, THE APPLICANT SHALL:

13 (1) SUBMIT TO THE BOARD AN APPLICATION ON THE FORM PROVIDED
14 BY THE BOARD;

15 (2) PAY TO THE BOARD THE APPLICATION FEE SET BY THE BOARD; AND

16 (3) MEET THE REQUIREMENTS ESTABLISHED UNDER § 5.5-303 OF THIS
17 SUBTITLE.

18 5.5-305.

19 (A) THE BOARD SHALL PLACE THE NAME OF EACH APPLICANT WHO MEETS
20 THE REQUIREMENTS OF THIS SUBTITLE ON THE LIST OF QUALIFIED APPLICANTS.

21 (B) FROM THE LIST OF ~~TRAINEE DOCKING MASTERS~~ QUALIFIED APPLICANTS,
22 THE BOARD MAY CHOOSE AND APPOINT THE NUMBER OF ~~QUALIFIED APPLICANTS~~
23 TRAINEE DOCKING MASTERS THAT THE BOARD CONSIDERS NECESSARY TO
24 PROMOTE THE SAFETY AND WELL-BEING OF OPERATIONS IN THE PORTS OF
25 MARYLAND.

26 5.5-306.

27 APPOINTMENT AS A TRAINEE DOCKING MASTER AUTHORIZES THE INDIVIDUAL
28 TO ENGAGE IN TRAINING, UNDER THE SUPERVISION OF A DOCKING MASTER
29 HOLDING AN UNLIMITED DOCKING MASTER LICENSE.

30 5.5-401.

31 (a) Except as otherwise provided in this subtitle, an individual shall be
32 licensed by the Board before the individual may provide docking services.

33 (b) If a vessel fails to employ a licensed docking master to provide docking
34 services as required under this article, the vessel and its master, owner, charterer,
35 and agent shall be jointly and severally liable for payment of the full fee as if a
36 licensed docking master had been employed.

1 5.5-402.

2 SUBJECT TO THE PROVISIONS OF THIS SUBTITLE, THE BOARD MAY ISSUE:

- 3 (1) AN UNLIMITED DOCKING MASTER LICENSE;
- 4 (2) A 37-FOOT-DRAFT LIMITED DOCKING MASTER LICENSE; AND
- 5 (3) A 43-FOOT-DRAFT LIMITED DOCKING MASTER LICENSE.

6 5.5-403.

7 (a) To qualify for a 37-FOOT-DRAFT LIMITED docking master license, an
8 applicant shall:

- 9 (1) [be at least 21 years old;
- 10 (2) be a citizen of the United States;
- 11 (3) provide the Board with proof of recent satisfactory completion of the
12 physical requirements for a first-class pilot license, as determined by the U.S. Coast
13 Guard;
- 14 (4) agree to participate in a U.S. Coast Guard approved random drug
15 testing program;
- 16 (5)] possess the following U.S. Coast Guard licenses and accreditations:
- 17 (i) a first-class pilot license for steam and motor vessels of
18 unlimited tonnage for the waters on which the applicant will operate;
- 19 (ii) a U.S. Coast Guard issued masters license for steam or motor
20 vessels;
- 21 (iii) unlimited radar observer endorsement;
- 22 (iv) certification by the U.S. Coast Guard of successful completion of
23 an accredited bridge resource management program; and
- 24 (v) Automatic Radar Piloting Aid (ARPA) certification;
- 25 [(6) have a minimum of 5 years' experience in the maritime industry
26 working on vessels in the deck department as a licensed master or mate on tugs or
27 inspected vessels, of which at least 2 years' experience shall be operating a ship assist
28 harbor tug as a licensed master;
- 29 (7)] (2) complete THE TRAINING PROGRAM APPROVED BY THE BOARD,
30 INCLUDING the following training requirements [determined by the Board,
31 including];

1 (i) observation from the bridge of a vessel of a minimum of 300
2 dockings or undockings in the Port of Baltimore, with at least 25% occurring at night;
3 and

4 (ii) [performing] SUCCESSFUL PERFORMANCE OF a minimum of
5 250 dockings, shiftings, or undockings in the Port of Baltimore under the supervision
6 of a licensed docking master[,] with at least 25% occurring at night[, at least 100 of
7 which shall be performed in the 24 months preceding the applicant's application to
8 the Board, with at least 25% occurring at night]; and

9 [(8)] (3) meet the physical requirements for the UNLIMITED docking
10 [pilots] MASTER license, as determined by the Board[, and submit to an annual
11 physical examination.]; AND

12 (4) POSSESS SUFFICIENT ABILITY, SKILL, AND EXPERIENCE FOR A
13 37-FOOT-DRAFT LIMITED DOCKING MASTER LICENSE AS DETERMINED BY THE
14 BOARD THROUGH OBSERVATION OF THE APPLICANT'S PERFORMANCE PROVIDING
15 SUPERVISED DOCKING MASTER SERVICES.

16 (b) (1) Verification of the training trips required under subsection [(a)(7)]
17 (A)(2) of this section shall be attested to and signed by a licensed docking master.

18 (2) For an applicant who has completed 250 dockings, shiftings, or
19 undockings required for licensure as a docking master on or before October 1, 2000,
20 independent verification of the number of dockings shall be provided to the Board by
21 the applicant.

22 (C) TO QUALIFY FOR A 43-FOOT-DRAFT LIMITED DOCKING MASTER LICENSE,
23 AN APPLICANT SHALL:

24 (1) SATISFY THE LICENSING AND ACCREDITATION REQUIREMENTS OF
25 SUBSECTION (A) OF THIS SECTION;

26 (2) HOLD A 37-FOOT-DRAFT LIMITED LICENSE FOR AT LEAST 1 YEAR;

27 (3) MEET THE PHYSICAL REQUIREMENTS FOR THE UNLIMITED
28 DOCKING MASTER LICENSE, AS DETERMINED BY THE BOARD; AND

29 (4) POSSESS SUFFICIENT ABILITY, SKILL, AND EXPERIENCE FOR A
30 43-FOOT-DRAFT LIMITED DOCKING MASTER LICENSE AS DETERMINED BY THE
31 BOARD THROUGH OBSERVATION OF THE APPLICANT'S PERFORMANCE WHILE
32 PROVIDING DOCKING MASTER SERVICES.

33 (D) TO QUALIFY FOR AN UNLIMITED DOCKING MASTER LICENSE, AN
34 APPLICANT SHALL:

35 (1) SATISFY THE LICENSING AND ACCREDITATION REQUIREMENTS OF
36 SUBSECTION (A) OF THIS SECTION;

1 (2) HOLD A 43-FOOT-DRAFT LIMITED DOCKING MASTER LICENSE FOR
2 AT LEAST 1 YEAR;

3 (3) MEET THE PHYSICAL REQUIREMENTS FOR THE UNLIMITED
4 DOCKING MASTER LICENSE, AS DETERMINED BY THE BOARD; AND

5 (4) POSSESS SUFFICIENT ABILITY, SKILL, AND EXPERIENCE FOR AN
6 UNLIMITED DOCKING MASTER LICENSE AS DETERMINED BY THE BOARD THROUGH
7 OBSERVATION OF THE APPLICANT'S PERFORMANCE WHILE PROVIDING DOCKING
8 MASTER SERVICES.

9 5.5-404.

10 (A) WHILE AN UNLIMITED DOCKING MASTER LICENSE IS IN EFFECT, THE
11 LICENSEE IS AUTHORIZED TO PROVIDE DOCKING SERVICES FOR VESSELS OF ANY
12 DRAFT WITHIN THE STATE.

13 (B) WHILE A 37-FOOT-DRAFT LIMITED DOCKING MASTER LICENSE IS IN
14 EFFECT, THE LICENSEE IS AUTHORIZED TO PROVIDE DOCKING SERVICES TO
15 VESSELS NOT EXCEEDING 37-FOOT-DRAFT AT ALL LOCATIONS EXCEPT THE
16 PETROLEUM FACILITY AT PINEY POINT AND THE LIQUEFIED NATURAL GAS FACILITY
17 AT COVE POINT.

18 (C) WHILE A 43-FOOT-DRAFT LIMITED DOCKING MASTER LICENSE IS IN
19 EFFECT, THE LICENSEE IS AUTHORIZED TO PROVIDE DOCKING SERVICES TO
20 VESSELS NOT EXCEEDING 43-FOOT-DRAFT AT ALL LOCATIONS EXCEPT THE
21 LIQUEFIED NATURAL GAS FACILITY AT COVE POINT.

22 5.5-405.

23 The Board shall determine the number of docking master licenses to be issued
24 based upon the safety and well-being of operations in the Ports of Maryland.

25 5.5-406.

26 (a) To apply for a docking master license, an applicant shall submit to the
27 Board an application on the form that the Board provides.

28 (b) The Board shall establish an application fee for a docking master license.

29 (c) If the applicant qualifies for a license under this title, and the Board
30 determines that additional licenses are necessary based upon the safety and
31 well-being of operations in the Ports of Maryland, the Board shall send the applicant
32 a notice stating that:

33 (1) the applicant has qualified for the license; and

34 (2) the Board will issue a license to the applicant on receipt of a license
35 fee of [\$600]:

36 (I) \$600 FOR AN UNLIMITED DOCKING MASTER LICENSE;

1 (II) \$300 FOR A 37-FOOT-DRAFT LIMITED DOCKING MASTER
2 LICENSE; AND

3 (III) \$300 FOR A 43-FOOT-DRAFT LIMITED DOCKING MASTER
4 LICENSE.

5 (d) (1) On payment of the license fee, the Board shall issue an appropriate
6 license to each applicant who meets the requirements of this title and is a member in
7 good standing of the Association.

8 (2) The Association shall accept as a member each docking master who
9 receives notice under subsection (c) of this section and pays the license fee required
10 under subsection (c)(2) of this section.

11 (e) The Board shall seal each license that the Board issues with its official
12 seal.

13 5.5-407.

14 (a) A docking master license shall be effective for 2 years from the date issued.

15 (b) At least 60 days before a docking master license expires, the Board shall
16 mail to the docking master licensee, at the last known address of the licensee:

17 (1) a renewal application form; and

18 (2) a notice that states:

19 (i) the date on which the current license expires;

20 (ii) the date by which the Board must receive the renewal
21 application for the renewal to be issued and mailed before the license expires; and

22 (iii) the amount of the renewal fee.

23 (c) From the date of expiration of a docking master license, a docking master
24 licensee who qualifies for licensure under [§ 5.5-302] § 5.5-403 of this subtitle shall
25 have a 1-year grace period within which to renew the docking master license without
26 completing an application for a new docking master license.

27 5.5-408.

28 (a) Subject to subsection (b) of this section, the Board may suspend or revoke
29 any docking master license upon determination [that evidence from a U.S. Coast
30 Guard investigation provides satisfactory proof] that a licensed docking master:

31 (1) has willfully violated any of the regulations adopted under this title;

32 (2) has acted in a grossly negligent manner with respect to any vessel
33 under the docking master's care; or

1 (3) is mentally or physically unfit to carry out the duties of a docking
2 master.

3 (b) (1) Before any disciplinary action may be taken concerning a complaint
4 against a licensed docking master, the Board shall:

5 (i) review the facts of the incident giving rise to the complaint; and

6 (ii) if the Board finds sufficient cause to proceed with disciplinary
7 action against the docking master, notify the docking master to appear before the
8 Board [and show cause why the disciplinary action should not be taken] FOR A
9 HEARING.

10 (2) The notice required under paragraph (1)(ii) of this subsection shall:

11 (i) be in writing;

12 (ii) specify the nature and substance of the complaint against the
13 docking master; and

14 (iii) be served on the docking master at least 15 days prior to the
15 hearing date:

16 1. in person; or

17 2. by certified mail addressed to the docking master's last
18 known address.

19 (C) IF A COMPLAINT AGAINST A LICENSED DOCKING MASTER INVOLVES A
20 MATTER THAT HAS BEEN INVESTIGATED BY THE U.S. COAST GUARD, THE BOARD
21 SHALL DETERMINE WHETHER THE EVIDENCE FROM THAT INVESTIGATION
22 PROVIDES SATISFACTORY PROOF THAT A VIOLATION UNDER SUBSECTION (A) OF
23 THIS SECTION HAS OCCURRED PRIOR TO TAKING DISCIPLINARY ACTION AGAINST
24 THE LICENSED DOCKING MASTER.

25 (⇌) (D) (1) A docking master whose license has been revoked or suspended
26 shall immediately surrender the docking master's license to the Board, which shall
27 retain the docking master license until the period of suspension expires.

28 (2) If a docking master whose license has been revoked or suspended
29 fails to immediately surrender the docking master's license to the Board on demand
30 or continues to provide docking services while the license is suspended or revoked, the
31 docking master shall be subject to the penalties established in [§ 5.5-503] § 5.5-603 of
32 this title.

33 (⇌) (E) If a docking master whose license has been suspended is otherwise
34 qualified for licensure at the time the docking master applies for reinstatement of the
35 license, the Board shall reinstate the docking master's license when the suspension
36 period expires.

1 ~~(E)~~ (F) (1) INSTEAD OF OR IN ADDITION TO SUSPENDING OR REVOKING A
2 LICENSE UNDER SUBSECTION (A) OF THIS SECTION, THE BOARD MAY IMPOSE A
3 PENALTY NOT TO EXCEED \$2,000 FOR EACH VIOLATION.

4 (2) TO DETERMINE THE AMOUNT OF THE PENALTY IMPOSED UNDER
5 THIS SUBSECTION, THE BOARD SHALL CONSIDER:

- 6 (I) THE SERIOUSNESS OF THE VIOLATION;
7 (II) THE HARM CAUSED BY THE VIOLATION;
8 (III) THE GOOD FAITH OF THE LICENSEE; AND
9 (IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE LICENSEE.

10 5.5-409.

11 (a) In this section, "contested case" has the meaning stated in § 10-202 of the
12 State Government Article.

13 (b) Any person aggrieved by a final decision of the Board in a contested case
14 under this title may take an appeal as allowed in §§ 10-222 and 10-223 of the State
15 Government Article.

16 5.5-602.

17 The master of a vessel may not fail to employ a docking master as required
18 under [§ 5.5-401] § 5.5-501 of this title.

19 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
20 effect October 1, 2002.