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Introduced and read first time: February 5, 2004  
Assigned to: Environmental Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Natural Resources - Fish and Fisheries - Recreational Tidal Fishing Guide**  
3 **License**

4 FOR the purpose of authorizing the Department of Natural Resources to issue a  
5 recreational tidal fishing guide license to allow a person to guide fishing parties  
6 of no more than a certain number of persons using only fishing poles, hand lines,  
7 and dip nets to catch in-season finfish; authorizing the members of the fishing  
8 party to catch in-season finfish using only fishing poles, hand lines, and dip  
9 nets; prohibiting the sale or use in a commercial activity of any fish caught in  
10 the course of conducting the activities authorized by a recreational tidal fishing  
11 guide license; prohibiting the Department from issuing a recreational tidal  
12 fishing guide license to a person under a certain age; prohibiting the  
13 Department from issuing more than one authorization to a person to engage in  
14 certain activities during a license year; establishing certain license application  
15 fees and renewal requirements; providing for suspension and revocation of a  
16 recreational tidal fishing guide license under certain circumstances; requiring  
17 the Department to credit any recreational tidal fishing guide license fees to the  
18 Fisheries Research and Development Fund; making a technical change; and  
19 generally relating to a recreational tidal fishing guide license.

20 BY repealing and reenacting, with amendments,  
21 Article - Natural Resources  
22 Section 4-210(f) and 4-701  
23 Annotated Code of Maryland  
24 (2000 Replacement Volume and 2003 Supplement)

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

1 **Article - Natural Resources**

2 4-210.

3 (f) The Department may issue a tidal fish license OR RECREATIONAL TIDAL  
4 FISHING GUIDE LICENSE under § 4-701 of this [subtitle] TITLE and a freshwater  
5 fishing guide license under § 4-210.1 of this subtitle.

6 4-701.

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

10 (b) (1) The Department shall [utilize] OFFER a [single,] commercial  
11 [license, to be known and designated as a] tidal fish license AND A RECREATIONAL  
12 TIDAL FISHING GUIDE LICENSE.

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

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

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

17 (3) (I) A RECREATIONAL TIDAL FISHING GUIDE LICENSE  
18 AUTHORIZES:

19 1. A LICENSEE TO GUIDE FISHING PARTIES OF NO MORE  
20 THAN 20 PERSONS USING ONLY FISHING POLES, HAND LINES, AND DIP NETS FOR  
21 IN-SEASON FINFISH IN THE TIDAL WATERS OF MARYLAND; AND

22 2. WHILE BEING GUIDED BY THE LICENSEE, THE MEMBERS  
23 OF THE FISHING PARTY TO CATCH IN-SEASON FINFISH USING ONLY FISHING POLES,  
24 HAND LINES, AND DIP NETS IN THE TIDAL WATERS OF MARYLAND.

25 (II) FISH CAUGHT IN THE COURSE OF CONDUCTING THE  
26 ACTIVITIES AUTHORIZED BY THE RECREATIONAL TIDAL FISHING GUIDE LICENSE,  
27 EITHER BY THE LICENSEE OR A MEMBER OF THE PARTY BEING GUIDED, MAY NOT BE  
28 SOLD OR OTHERWISE USED IN A COMMERCIAL ACTIVITY.

29 (4) Except for a person receiving a license under subsection (i)(2)(ii) of  
30 this section, the Department may not issue a tidal fish license OR A RECREATIONAL  
31 TIDAL FISHING GUIDE LICENSE to an individual who is younger than 14 years of age.

32 [(4)] (5) A person may not guide fishing parties or catch, sell, buy,  
33 process, transport, export, or otherwise deal in fish caught in tidal waters unless  
34 licensed under this section.

1 (c) (1) The license year for every [tidal fish] license ISSUED UNDER THIS  
 2 SECTION shall be 12 months from September 1 through August 31 of the following  
 3 year.

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

6 (d) (1) The Department may issue no more than one authorization to a  
 7 person to engage in each activity under [paragraph] PARAGRAPHS (2)(ii)1 and 2 AND  
 8 (3) of this subsection during a license year.

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

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

14 1. To provide services as:

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

17 B. A master fishing guide, in addition to the fee under item A  
 18 of this item - \$50 per vessel

19 2. To catch for sale fish with equipment which is legal under  
 20 this title:

21 A. Finfish:

22 I. Hook and line only, anywhere: \$37.50

23 II. All other equipment: \$100

24 B. Crabs:

25 I. Up to 50 pots, trotlines, nets, dip nets, traps, pounds, and  
 26 scrapes: \$50

27 II. Over 50 pots, plus any other gear listed in item I of this  
 28 sub-sub-subparagraph: \$150

29 C. Clams - \$100

30 D. Oysters - \$250 for a dredge boat and \$50 for other than a  
 31 dredge boat

32 E. Conch, turtles, and lobster - \$50

1 F. For all activities in item 1 A of this subparagraph and in  
2 items A through E of this item, unlimited tidal fish - \$300

3 3. For one or two crew members employed under § 4-814 of  
4 this title to enable a licensee to catch crabs under subparagraph (ii)2 B II and F of this  
5 paragraph with more than 300 pots, the licensee shall pay \$20 for each crew member.

6 4. Except for a licensee dealing in his own catch, for a person  
7 to buy, process, pack, resell, market or otherwise deal in fish caught in the tidal  
8 waters of Maryland, seafood dealer - \$150

9 (3) ON A RECREATIONAL TIDAL FISHING GUIDE LICENSE, THE  
10 DEPARTMENT MAY AUTHORIZE THE LICENSEE TO ENGAGE IN THE ACTIVITY  
11 DESCRIBED IN SUBSECTION (B)(3) OF THIS SECTION PROVIDED A FEE OF \$50 FOR A  
12 RESIDENT AND \$100 FOR A NONRESIDENT HAS BEEN PAID.

13 (e) (1) To catch striped bass for sale:

14 (i) A licensee authorized under subsection (d)(2)(ii)2 A of this  
15 section shall pay an annual surcharge of \$200; or

16 (ii) A licensee authorized under subsection (d)(2)(ii)2 F of this  
17 section shall pay with the license fee an annual surcharge of \$100.

18 (2) A person may not catch oysters for sale without possessing a valid  
19 license under this section and paying an annual surcharge of \$300 which shall be  
20 used by the Department only for oyster repletion activities.

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

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

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

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

34 1. An amount equal to the difference between the total fees  
35 charged to a Maryland resident engaged in like fishing activities in the state of  
36 residence of the nonresident applicant and the total of normal license fees for fishing  
37 activities in Maryland; or



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

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

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

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

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

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

17 (4) (i) The Department shall establish by regulation a procedure for a  
18 licensee, except a fishing guide [licensee] LICENSEE, A RECREATIONAL TIDAL  
19 FISHING GUIDE LICENSEE, or a master fishing guide licensee, to voluntarily register  
20 the licensee's commercial fishing vessel number on the face of the license.

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

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

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

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

31 2. An authorized representative of a deceased licensee  
32 regardless of the number of seasons the deceased licensee held a valid tidal fish  
33 license.

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

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

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

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

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

6 4. Provided a notarized bill of sale.

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

10 (2) (i) Application to renew a tidal fish license OR RECREATIONAL  
11 TIDAL FISHING GUIDE LICENSE shall be made not later than August 31, or the next  
12 business day in the instance that the Department is not open, for the following license  
13 year.

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

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

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

20 3. A late fee of \$50 is paid by the applicant in addition to the  
21 license fee.

22 (j-1) (1) At the time of license renewal, a licensee who possesses three or more  
23 authorizations under subsections (d)(2)(ii)1 and (d)(2)(ii)2 A through E of this section,  
24 one of which is a crabbing authorization, may relinquish each authorization and  
25 receive an authorization under subsection (d)(2)(ii)2 F of this section.

26 (2) The Department shall adjust the number of authorizations under  
27 subsection (d)(2)(ii) of this section to reflect the number of license conversions under  
28 paragraph (1) of this subsection.

29 (k) (1) In addition to any other penalty provided in this title, the  
30 Department may suspend for a period of not less than 10 days nor more than 365 days  
31 a person's entitlement to engage in a particular activity or activities under a [tidal  
32 fish] license ISSUED UNDER THIS SECTION.

33 (2) During a period of suspension imposed by the Department, the  
34 person penalized is not and shall not be authorized under any existing, renewed, or  
35 new tidal fish OR RECREATIONAL TIDAL FISHING GUIDE license to engage in the  
36 particular activity or activities for which the suspension is imposed.

1 (3) The following are grounds for suspension under this section:

2 (i) Making any false statement in an application for a [tidal fish]  
3 license ISSUED UNDER THIS SECTION;

4 (ii) Conviction of a person for violations under this title so often as  
5 to indicate an intent to disregard the fish and fisheries laws of the State, provided  
6 that proceedings for revocation on this ground are based on no fewer than:

7 1. 3 convictions for violations occurring on separate days  
8 within any 365-day period, of provisions under any one subtitle of this title; or

9 2. 5 convictions for violations occurring on separate days  
10 within any 365-day period, of any provisions under this title;

11 (iii) Failure to submit reports required by the provisions of this title  
12 or by the Department pursuant to provisions of this title; or

13 (iv) Failure for a nonresident of the State to appear in court  
14 pursuant to a citation issued by a Natural Resources police officer, or to any other  
15 process issued by any court of Maryland, for violation of this title.

16 (4) The following are grounds for revocation of a [tidal fish] license  
17 ISSUED UNDER THIS SECTION:

18 (i) Submitting a false report required by the provisions of this title  
19 or by the Department pursuant to the provisions of this title; or

20 (ii) Suspension of the person's [tidal fish] license under paragraph  
21 (1) of this subsection more than once in any 24-month period.

22 (5) For purposes of suspensions under subparagraph (ii) of paragraph (3)  
23 of this subsection, the Department shall adopt as part of its procedural regulations:

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

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

28 (6) The Department shall initiate any proceeding to suspend a [tidal  
29 fish] license ISSUED under this section not later than 6 months after the time for  
30 filing an appeal of the 3rd conviction under paragraph (3)(ii)1 of this subsection has  
31 passed or the time for filing an appeal of the 5th conviction under paragraph (3)(ii)2  
32 of this subsection has passed.

33 (7) Before the suspension of a [tidal fish] license ISSUED under this  
34 section, the Department shall hold a hearing upon not less than 10 days' notice to the  
35 licensee, except that upon the failure of a nonresident of the State to appear in a court  
36 of this State as required by any charging document accusing the person of committing



1 any offense under this title, in addition to any other appropriate action taken by the  
2 court or the Department, the Department may suspend immediately and without  
3 hearing any license issued to the person under this title.

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

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

17 (n) The Department shall:

18 (1) Deposit to the credit of the Fisheries Research and Development  
19 Fund all fees received for tidal fish [licenses] LICENSES, RECREATIONAL TIDAL  
20 FISHING GUIDE LICENSES, and apprenticeship permits; and

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

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

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

25 (ii) Either:

26 1. Owned two or more vessels used to carry passengers for  
27 fishing;

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

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

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

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

35 (ii) Supplying with the application proofs of ownership of the  
36 required vessels; and

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

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

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

6 (ii) Allow a person who holds a valid Coast Guard license to operate  
7 a vessel to carry passengers for fishing from the marina owned or operated by the  
8 master guide license holder authorized under paragraph (1)(ii)3 of this subsection as  
9 follows:

- 10 1. One person for 10 vessels;
- 11 2. Two persons for 11 to 20 vessels;
- 12 3. Three persons for 21 to 30 vessels;
- 13 4. Four persons for 31 to 40 vessels;
- 14 5. Five persons for 41 to 50 vessels; and
- 15 6. Six persons for 51 or more vessels.

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

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

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

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

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
30 October 1, 2004.