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By: Chairman, Education, Health, and Environmental Affairs Committee (By Request - Departmental - Natural Resources)

Requested: November 3, 2003

Introduced and read first time: January 14, 2004

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 24, 2004

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CHAPTER____

1 AN ACT concerning

- Natural Resources Fishing Licenses and Authorizations Suspension and Revocation
- 4 FOR the purpose of altering the criteria for suspension and revocation of certain
- 5 fishing licenses and authorizations under certain circumstances; authorizing
- 6 the Department of Natural Resources to suspend or revoke certain fishing
- 7 licenses for certain convictions; establishing certain hearing procedures;
- 8 requiring the Department to adopt certain regulations in accordance with
- 9 certain recommendations; making <u>certain technical corrections and</u> stylistic
- 10 changes; and generally relating to the suspension and revocation of fishing
- 11 licenses and authorizations.
- 12 BY repealing and reenacting, with amendments,
- 13 Article Natural Resources
- 14 Section 4-701 and 4-745
- 15 Annotated Code of Maryland
- 16 (2000 Replacement Volume and 2003 Supplement)
- 17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
- 18 MARYLAND, That the Laws of Maryland read as follows:

1 Article - Natural Resources 2 4-701. 3 (a) This section applies to any person who is required under Subtitle 2, 7, 8, 9, 4 or 10 of this title to be licensed to guide fishing parties or to catch, sell, buy, process, 5 transport, export, or otherwise deal in fish caught in tidal waters. The Department shall utilize a single, commercial license, to be 6 (1) 7 known and designated as a tidal fish license. 8 (2)A tidal fish license authorizes a licensee: 9 (i) To engage in each activity indicated on the license; and 10 (ii) For catching crabs, to utilize the number of crew members 11 indicated on the license. 12 Except for a person receiving a license under subsection (i)(2)(ii) of (3) 13 this section, the Department may not issue a tidal fish license to an individual who is 14 younger than 14 years of age. A person may not guide fishing parties or catch, sell, buy, process, 15 16 transport, export, or otherwise deal in fish caught in tidal waters unless licensed under this section. The license year for every tidal fish license shall be 12 months from 18 (c) (1) 19 September 1 through August 31 of the following year. 20 (2) A licensee and crew members may engage only in those activities for 21 which the annual fees for that license year have been paid. 22 The Department may issue no more than one authorization to a 23 person to engage in each activity under paragraph (2)(ii)1 and 2 of this subsection 24 during a license year. 25 (2) (i) On a tidal fish license, the Department may issue an 26 authorization for any of the following activities for which the indicated fee has been 27 paid. 28 The following annual fees for an authorization shall apply (ii) 29 regardless of when the license is issued or an activity is authorized: 30 1. To provide services as: 31 A fishing guide in the tidal waters of Maryland - \$50 for a 32 resident and \$100 for a nonresident; and

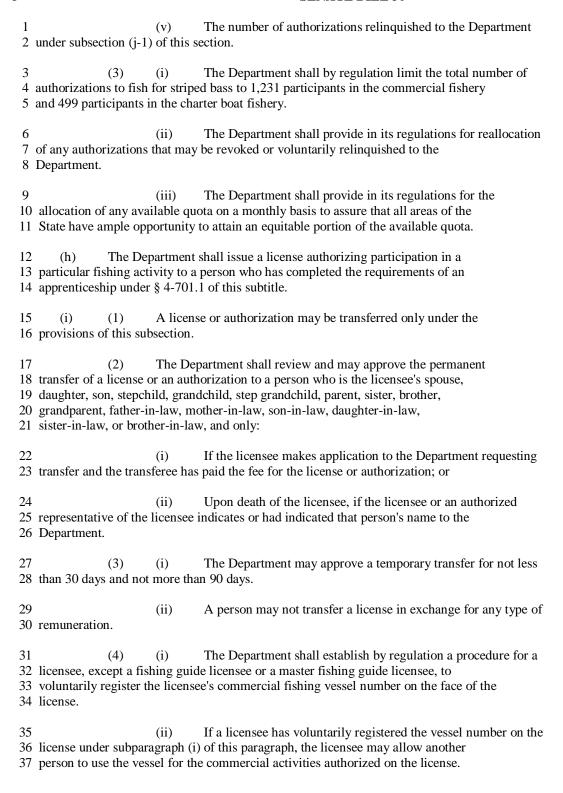
B.

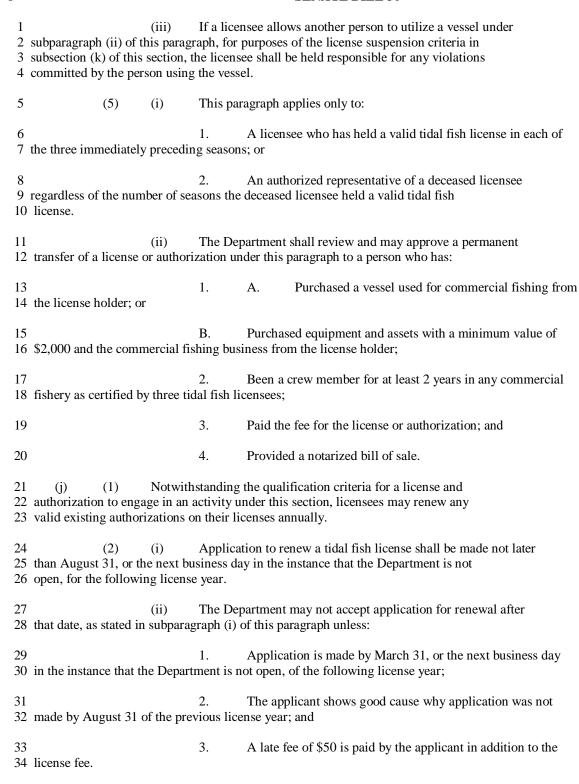
34 of this item - \$50 per vessel

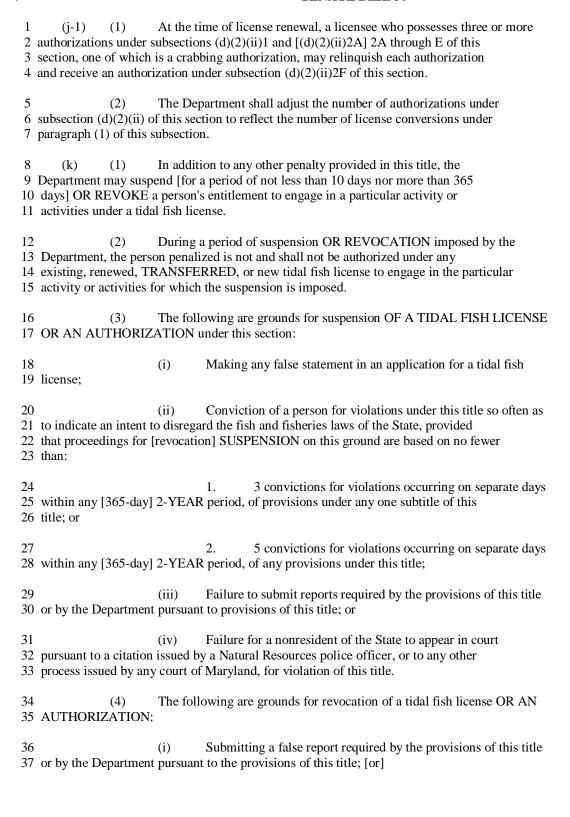
A master fishing guide, in addition to the fee under item A

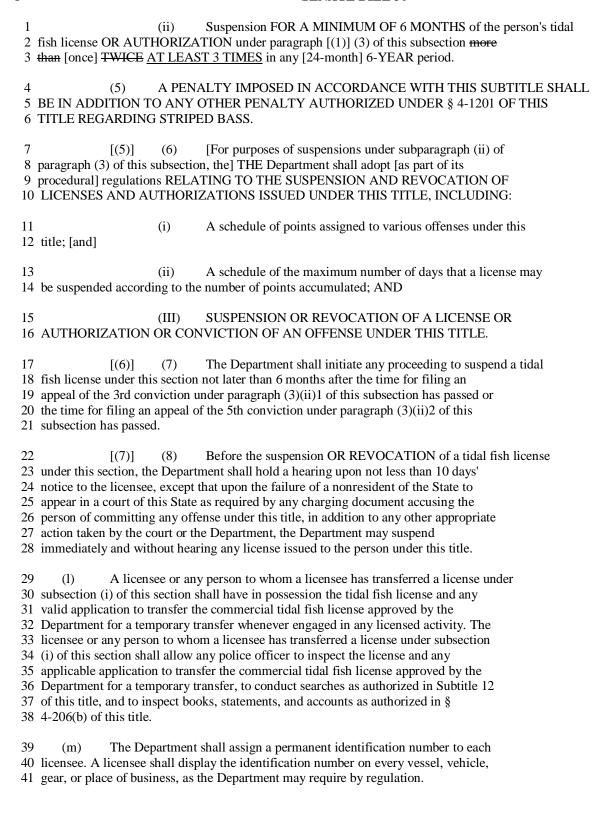
1 2 this title:	2.	To catch for sale fish with equipment which is legal under			
3	A.	Finfish:			
4	I.	Hook and line only, anywhere: \$37.50			
5	II.	All other equipment: \$100			
6	B.	Crabs:			
7 8 scrapes: \$50	I.	Up to 50 pots, trotlines, nets, dip nets, traps, pounds, and			
9 10 sub-sub-subparagraph: \$150	II.	Over 50 pots, plus any other gear listed in item I of this			
11	C.	Clams - \$100			
12 13 dredge boat	D.	Oysters - \$250 for a dredge boat and \$50 for other than a			
14	E.	Conch, turtles, and lobster - \$50			
15 16 items A through E of this item	F. n, unlimi	For all activities in item 1A of this subparagraph and in ted tidal fish - \$300			
17 3. For one or two crew members employed under § 4-814 of 18 this title to enable a licensee to catch crabs under subparagraph (ii)2BII and F of this 19 paragraph with more than 300 pots, the licensee shall pay \$20 for each crew member.					
20 21 to buy, process, pack, resell, 1 22 waters of Maryland, seafood		Except for a licensee dealing in his own catch, for a person otherwise deal in fish caught in the tidal \$150			
23 (e) (1) To cate	h striped	bass for sale:			
24 (i) 25 section shall pay an annual su		see authorized under subsection (d)(2)(ii)2A of this of \$200; or			
26 (ii) 27 section shall pay with the lice		see authorized under subsection (d)(2)(ii)2F of this in annual surcharge of \$100.			
	l paying a	ot catch oysters for sale without possessing a valid an annual surcharge of \$300 which shall be r repletion activities.			
32 (d)(2)(ii)2 and 4 of this section	on, a licer	e normal license fees imposed under subsection usee shall pay to the Department an annual Seafood Marketing Office of the Department of			

	Agriculture to fund seafood marketing programs which have been approved by the Department.					
3	(4) (i) 1. In this paragraph, "fishing activities" means those activities that are directly related to catching fish.					
5 6	2. "Fishing activities" does not include the activities of buying, selling, processing, transporting, exporting, or similarly dealing in fish.					
9	(ii) The Department shall assess annually on every nonresident license applicant for the applicant's fishing activities under Subtitles 7, 8, and 9 of this title, in addition to the normal license fees imposed by this subsection, a surcharge which cumulatively for the license year, shall be the greater of:					
13	1. An amount equal to the difference between the total fees charged to a Maryland resident engaged in like fishing activities in the state of residence of the nonresident applicant and the total of normal license fees for fishing activities in Maryland; or					
15	2. \$350.					
18 19	6 (f) An applicant for a new license to provide services as a commercial fishing 7 guide in tidal waters of the State shall supply as part of the initial application 8 verifiable references to any federal license that is issued by the U.S. Coast Guard to 9 operate a vessel carrying passengers for hire in the applicant's name, as a condition 0 precedent to engaging as a commercial fishing guide in tidal waters.					
23	(g) (1) Notwithstanding any other provision of this section, the Department may issue an apprenticeship permit for any activity under subsection (d)(2)(ii)1 or 2 of this section to a person who currently resides and has resided for at least 5 years on an island in the State that is at least 3 miles from the mainland.					
27	(2) The Department shall set by regulation targets for the number of tidal fish license authorizations under subsection (d)(2)(ii) of this section to be the number issued between September 1, 1998 and March 31, 1999. The Department may modify by regulation the target number of authorizations based on:					
29	(i) Recommendations of the Tidal Fisheries Advisory Commission;					
32	(ii) Recommendations of fishery management plans adopted by the Department, the Chesapeake Bay Program, the Atlantic States Marine Fisheries Commission, the Mid-Atlantic Fisheries Management Council, or any other appropriate management body;					
34	(iii) The number of people historically participating;					
	(iv) Target species, size, number, weight, incidental catch, total biomass, annual harvest, mortality rates, and other factors which are necessary and appropriate; and					



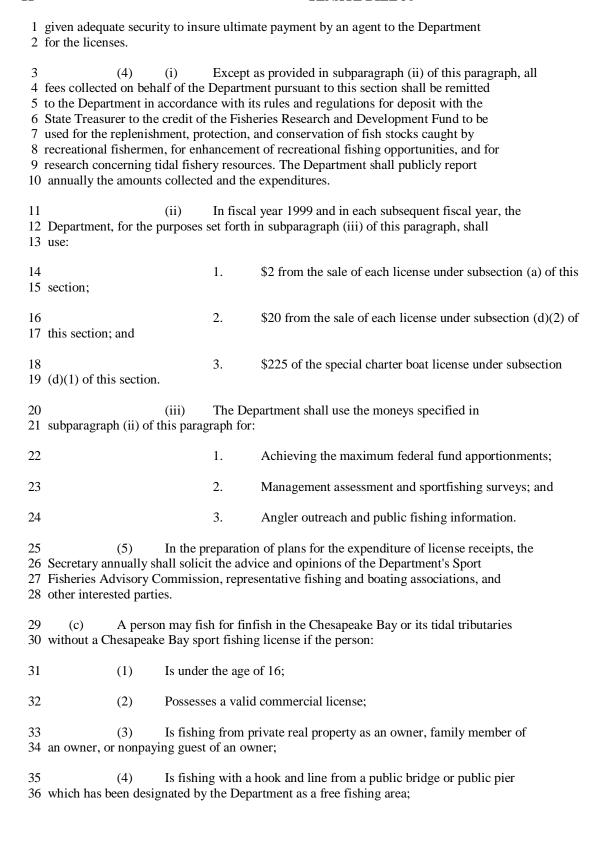






1	(n)	The Dep	artment s	shall:	
2 3	Fund all fees	(1) received			edit of the Fisheries Research and Development ases and apprenticeship permits; and
4 5	for enforcem	(2) ent purpo			reived from the sale of licenses to catch striped bass en season for catching striped bass.
6	(0)	(1)	This sub	section a	pplies only to a person who, on April 1, 1997:
7			(i)	Held a v	ralid fishing guide license; and
8			(ii)	Either:	
9 10	fishing;			1.	Owned two or more vessels used to carry passengers for
11 12	more that wa	as used to	o carry pa	2. assengers	Owned or operated a federally licensed vessel of 50 tons or for fishing; or
13 14	vessels oper	ate to car	ry passen	3. agers for	Owned or operated a marina from which 10 or more fishing.
15 16	subsection n	(2) nay obtai			eets the requirements of paragraph (1) of this r fishing guide license by:
17			(i)	Filing ar	application on a form provided by the Department;
18 19	required ves	sels; and	(ii)	Supplyin	ng with the application proofs of ownership of the
20 21	4-701(d)(2)((ii)1] SUI	(iii) BSECTIO		he master fishing guide license fee set forth in [§ (II)1 of this [title] SECTION.
22		(3)	A person	n holding	a master fishing guide license may:
23 24	by the maste	er fishing	(i) guide; ar		other persons to guide fishing parties on vessels owned
27				r fishing	person who holds a valid Coast Guard license to operate from the marina owned or operated by the under paragraph (1)(ii)3 of this subsection as
29				1.	One person for 10 vessels;
30				2.	Two persons for 11 to 20 vessels;
31				3.	Three persons for 21 to 30 vessels;
32				4.	Four persons for 31 to 40 vessels;

1		5.	Five persons for 41 to 50 vessels; and			
2		6.	Six persons for 51 or more vessels.			
5		esponding to tl	partment shall issue a number of copies of the master he number of vessels owned or operated by the aring the registration number of one of the			
7 8	(ii) operated, the appropriate		ster fishing guide shall ensure that when a vessel is eense is on board.			
11	(5) If a master fishing guide employs another person to operate a vessel to carry passengers for fishing, for purposes of the license suspension criteria in subsection (k) of this section, the master fishing guide shall be held responsible for any violations committed by the person employed to operate the vessel.					
	-	-	cense shall identify either Sunday or Monday as the license may not crab for commercial			
16	5 4-745.					
	7 (a) (1) Except as provided in subsections (c) and (d) of this section, a person 8 may not fish for finfish in the Chesapeake Bay or in its tributaries up to tidal 9 boundaries without first obtaining a Chesapeake Bay sport fishing license.					
20 21			be obtained from the Department or from any ne following annual license fees shall apply:			
22	(i)	Residen	t \$9			
23 24	(ii) from date of issue	0.0	erm] SHORT-TERM license valid for 5 consecutive days			
25	iii (iii) Nonresio	dent \$14			
26	(iv)) Residen	t and nonresident blind persons No fee			
	(3) Except for a license issued under subsection (d) of this section, every 3 Chesapeake Bay sport fishing license shall be valid for not more than 1 year and shall 9 expire on December 31.					
	(b) (1) The Department may designate a person engaged in a commercial enterprise to sell the Chesapeake Bay sport fishing license as an agent under the Department's control and supervision.					
33	(2) As	compensation	, the agent shall retain \$1 for each license issued.			
34 35			Bay sport fishing license shall be furnished to an on consignment and only if the Department is			



3 4 5 6	(5) Holds a valid tidal water sport fishing license issued by the State of Virginia, Potomac River Fisheries Commission, or District of Columbia, provided that this exemption shall not take effect until the Secretary has published notice in the Maryland Register of the Secretary's determination that the Virginia, Potomac River Fisheries Commission, or District of Columbia requirements for a tidal water sport fishing license are substantially similar to and reciprocal with the Chesapeake Bay sport fishing license requirements of this section;						
8 9	(6) of this section;	Is fishing pursuant to any special license issued under subsection (d)					
10	(7)	(i)	Is on active duty with the armed forces of the United States;				
11		(ii)	Is a resident of this State;				
12		(iii)	Is on leave from the armed forces; and				
13		(iv)	Has, while fishing, a copy of the person's official leave orders;				
14	(8)	Fishes o	n a free fishing day designated by the Secretary; or				
15 16	Holds a current resident consolidated senior sport fishing license issued under § 4-216 of this title.						
	(d) (1) The Department may provide by regulation for issuance of a special charter boat license that would be valid for all individuals on a charter boat operated by a licensed fishing guide. The fee shall be:						
20		(i)	For 6 fishermen or less \$240.				
21		(ii)	For 7 or more fishermen \$290.				
24 25 26	(2) (i) The Department may provide by regulation for issuance of an annual special Chesapeake Bay sport fishing license, which when permanently affixed to a boat registered in any state shall authorize any person on the boat to fish for finfish in the Chesapeake Bay or in its tributaries up to tidal boundaries, except that such a license may not be used on a boat which has been hired to take such persons fishing.						
28		(ii)	The annual fee for this special license shall be \$40.				
31 32 33 34 35 36	9 (iii) If a boat owner purchases the special license under this 0 paragraph, the boat owner may fish anywhere in the Chesapeake Bay, whether the 1 boat owner is fishing in the owner's boat, in another person's boat, on land, or 2 elsewhere. The Department shall issue a complimentary Chesapeake Bay sport 3 fishing license to the boat owner who purchases a special license under this 4 paragraph. If a boat to which the special license is affixed has more than one owner, 5 then only the individual applicant who signs the application for the special license 6 shall be entitled to a complimentary Chesapeake Bay sport fishing license under this 7 paragraph.						

- **SENATE BILL 50** IN ADDITION TO ANY OTHER PENALTY PROVIDED IN THIS SUBTITLE 1 (E) (1) 2 UNDER THIS TITLE, THE DEPARTMENT MAY SUSPEND A PERSON'S ENTITLEMENT TO 3 ENGAGE IN A PARTICULAR ACTIVITY OR ACTIVITIES LICENSED OR PERMITTED 4 UNDER THIS SECTION. DURING A PERIOD OF SUSPENSION IMPOSED BY THE DEPARTMENT, 5 (2) 6 THE PERSON WHOSE LICENSE HAS BEEN SUSPENDED MAY NOT ENGAGE IN AN 7 ACTIVITY FOR WHICH THE LICENSE SUSPENSION IS IMPOSED. THE FOLLOWING ARE GROUNDS FOR SUSPENSION OF A LICENSE 8 (3) 9 ISSUED UNDER THIS SECTION: 10 (I) MAKING A FALSE STATEMENT IN AN APPLICATION: (II)THREE CONVICTIONS FOR VIOLATIONS OCCURRING ON 12 SEPARATE DAYS WITHIN ANY 3-YEAR PERIOD OF PROVISIONS UNDER THIS TITLE; FAILURE TO SUBMIT A REPORT REQUIRED UNDER THIS TITLE 13 (III) 14 OR BY REGULATION; OR FAILURE OF A NONRESIDENT OF THE STATE TO APPEAR IN 15 (IV) 16 COURT PURSUANT TO A CITATION ISSUED BY A NATURAL RESOURCES POLICE 17 OFFICER, OR TO ANY OTHER PROCESS ISSUED BY ANY COURT OF MARYLAND, FOR 18 VIOLATION OF THIS TITLE. 19 A PENALTY IMPOSED IN ACCORDANCE WITH THIS SECTION IS IN 20 ADDITION TO ANY OTHER PENALTY AUTHORIZED UNDER § 4-1201 OF THIS TITLE 21 REGARDING STRIPED BASS. 22 (5) THE DEPARTMENT SHALL ADOPT REGULATIONS THAT PROVIDE: 23 A SCHEDULE OF POINTS ASSIGNED TO VARIOUS OFFENSES (I) 24 UNDER THIS TITLE: A SCHEDULE OF THE MAXIMUM NUMBER OF DAYS THAT A 25 (II)26 LICENSE MAY BE SUSPENDED ACCORDING TO THE NUMBER OF POINTS 27 ACCUMULATED; AND 28 (III)FOR SUSPENSION OF A LICENSE FOR CONVICTION OF AN 29 OFFENSE UNDER THIS TITLE.
- 30 THE DEPARTMENT SHALL INITIATE ANY PROCEEDING TO SUSPEND A 31 LICENSE UNDER THIS SECTION NOT LATER THAN 6 MONTHS AFTER THE TIME FOR
- 32 FILING AN APPEAL OF THE THIRD CONVICTION UNDER PARAGRAPH (3)(II) OF THIS
- 33 SUBSECTION HAS PASSED.
- BEFORE THE SUSPENSION OF A LICENSE UNDER THIS SECTION, THE 34
- 35 DEPARTMENT SHALL HOLD A HEARING ON NOT LESS THAN 10 DAYS' NOTICE TO THE
- 36 LICENSEE, EXCEPT THAT ON THE FAILURE OF A NONRESIDENT OF THE STATE TO
- 37 APPEAR IN A COURT OF THIS STATE AS REQUIRED BY ANY CHARGING DOCUMENT

- 1 ACCUSING THE PERSON OF COMMITTING ANY OFFENSE UNDER THIS SUBTITLE, IN
- 2 ADDITION TO ANY OTHER APPROPRIATE ACTION TAKEN BY THE COURT OR THE
- 3 DEPARTMENT, THE DEPARTMENT MAY SUSPEND IMMEDIATELY AND WITHOUT
- 4 HEARING ANY LICENSE ISSUED TO THE PERSON UNDER THIS TITLE.
- 5 SECTION 2. AND BE IT FURTHER ENACTED, That, in accordance with the
- 6 recommendations made on July 22, 2003, by the joint workgroup created by the Tidal
- 7 Fish Advisory Commission and the Sport Fish Advisory Commission, the Department
- 8 shall adopt regulations relating to the suspension and revocation of licenses and the
- 9 assignment of points for specific fishery offenses in accordance with the
- 10 recommendations made by the workgroup created by the Tidal Fish Advisory
- 11 Commission and the Sport Fish Advisory Commission.
- 12 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
- 13 effect October 1, 2004.