

# HOUSE BILL 1355

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By: **Delegates Lafferty and Morhaim**

Introduced and read first time: February 19, 2009

Assigned to: Rules and Executive Nominations

Re-referred to: Environmental Matters, March 2, 2009

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 25, 2009

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Natural Resources – Tidal Fish Licenses and Authorizations – Enforcement**

3 FOR the purpose of altering the grounds for suspension or revocation of a certain tidal  
4 fish license or authorization; requiring the Department of Natural Resources to  
5 adopt certain regulations on or before a certain date that include enhanced  
6 penalties for certain violations; requiring the Department to adopt certain  
7 regulations in consultation with certain entities; repealing a requirement that  
8 the Department initiate certain proceedings to suspend a tidal fish license not  
9 later than a certain time; and generally relating to tidal fish licenses and  
10 authorizations.

11 BY repealing and reenacting, without amendments,  
12 Article – Natural Resources  
13 Section 4-701(a) and (b)(1)  
14 Annotated Code of Maryland  
15 (2005 Replacement Volume and 2008 Supplement)

16 BY repealing and reenacting, with amendments,  
17 Article – Natural Resources  
18 Section 4-701(l)  
19 Annotated Code of Maryland  
20 (2005 Replacement Volume and 2008 Supplement)

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

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 **Article – Natural Resources**

2 4–701.

3 (a) This section applies to any person who is required under Subtitle  
4 2, 7, 8, 9, or 10 of this title to be licensed to guide fishing parties or to catch, sell, buy,  
5 process, transport, export, or otherwise deal in fish caught in tidal waters.

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

8 (1) (1) In addition to any other penalty provided in this title, the  
9 Department may suspend or revoke a person's entitlement to engage in a particular  
10 activity or activities under a tidal fish license.

11 (2) During a period of suspension or revocation imposed by the  
12 Department, the person penalized is not and shall not be authorized under any  
13 existing, renewed, transferred, or new tidal fish license to engage in the particular  
14 activity or activities for which the suspension is imposed.

15 (3) The following are grounds for suspension **OR REVOCATION** of a  
16 tidal fish license or an authorization under this section:

17 (i) Making any false statement in an application for a tidal fish  
18 license;

19 (ii) Conviction of a person for [violations] **A VIOLATION** under  
20 this title [so often as to indicate an intent to disregard the fish and fisheries laws of  
21 the State, provided that proceedings for suspension on this ground are based on no  
22 fewer than:

23 1. 3 convictions for violations occurring on separate days  
24 within any 2–year period, of provisions under any one subtitle of this title; or

25 2. 5 convictions for violations occurring on separate days  
26 within any 2–year period, of any provisions under this title];

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

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

32 [(4) The following are grounds for revocation of a tidal fish license or an  
33 authorization:

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

3 (ii) Suspension for a minimum of 6 months of the person’s tidal  
4 fish license or authorization under paragraph (3) of this subsection at least 3 times in  
5 any 6–year period.]

6 [(5)] (4) A penalty imposed in accordance with this subtitle shall be  
7 in addition to any other penalty authorized under § 4–1201 of this title regarding  
8 striped bass.

9 [(6)] (5) The Department, IN CONSULTATION WITH THE TIDAL  
10 FISHERIES ADVISORY COMMISSION AND THE SPORT FISHERIES ADVISORY  
11 COMMISSION, shall adopt regulations relating to the suspension and revocation of  
12 licenses and authorizations issued under this title, including ~~ENHANCED PENALTIES~~  
13 ~~FOR~~:

14 (i) A schedule of points assigned to various offenses under this  
15 title;

16 (ii) A schedule of the maximum number of days that a license  
17 may be suspended according to the number of points accumulated; ~~and~~

18 (iii) Suspension or revocation of a license or authorization or  
19 conviction of an offense under this ~~title~~ TITLE;

20 ~~(I)~~ (IV) ~~REPEATED~~ ENHANCED PENALTIES FOR  
21 REPEATED VIOLATIONS OF THIS TITLE; AND

22 ~~(II)~~ (V) VIOLATIONS ENHANCED PENALTIES FOR  
23 VIOLATIONS OF PROVISIONS OF THIS TITLE THAT REGULATE SPECIES DEEMED  
24 BY THE DEPARTMENT TO BE IN NEED OF SPECIAL PROTECTION, INCLUDING  
25 STRIPED BASS, CRABS, OYSTERS, AND MENHADEN.

26 ~~[(7)] (6)~~ ~~The Department shall initiate any proceeding to suspend a~~  
27 ~~tidal fish license under this section not later than 6 months after the time for filing an~~  
28 ~~appeal of the 3rd conviction under paragraph (3)(i)1 of this subsection has passed or~~  
29 ~~the time for filing an appeal of the 5th conviction under paragraph (3)(i)2 of this~~  
30 ~~subsection has passed.~~

31 [(8)] ~~(7)~~ (6) Before the suspension or revocation of a tidal fish license  
32 under this section, the Department shall hold a hearing upon not less than 10 days’  
33 notice to the licensee, except that upon the failure of a nonresident of the State to  
34 appear in a court of this State as required by any charging document accusing the  
35 person of committing any offense under this title, in addition to any other appropriate

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

3 SECTION 2. AND BE IT FURTHER ENACTED, That on or before January 1,  
4 2010, the Department of Natural Resources shall adopt regulations relating to the  
5 suspension and revocation of licenses and authorizations issued under Title 4, Subtitle  
6 7 of the Natural Resources Article.

7 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8 October 1, 2009.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.