

SENATE BILL 164

M2

9lr0134

By: **Chair, Education, Health, and Environmental Affairs Committee (By Request – Departmental – Natural Resources)**

Introduced and read first time: January 20, 2009

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 3, 2009

CHAPTER _____

1 AN ACT concerning

2 **Natural Resources – Recreational Fishing Licenses – Penalties**

3 FOR the purpose of altering the authority of the Secretary of Natural Resources to
4 revoke or suspend certain recreational fishing licenses to apply to licenses
5 issued to fish in certain nontidal and tidal waters; authorizing the Secretary to
6 adopt regulations that list the criteria for the suspension of certain recreational
7 fishing licenses; prohibiting a person from engaging in certain activities during
8 a period of suspension of a license; establishing certain grounds for the
9 immediate suspension of a license; establishing certain timing and hearing
10 requirements before suspension of a license; authorizing the Department of
11 Natural Resources to suspend immediately the license of a nonresident license
12 holder under certain circumstances; repealing certain penalty provisions
13 applicable to recreational fishing in nontidal waters; repealing certain penalty
14 provisions applicable to recreational fishing in tidal waters; and generally
15 relating to penalties for violations of recreational fishing laws.

16 BY adding to

17 Article – Natural Resources

18 Section 4–220

19 Annotated Code of Maryland

20 (2005 Replacement Volume and 2008 Supplement)

21 BY repealing and reenacting, with amendments,

22 Article – Natural Resources

23 Section 4–602 and 4–745

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.



Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing
Article – Natural Resources
Section 4–626
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article – Natural Resources

4–220.

(A) IN ADDITION TO ANY OTHER PENALTY PROVIDED BY THE
PROVISIONS OF THIS TITLE, THE SECRETARY MAY REVOKE OR SUSPEND ANY
RECREATIONAL LICENSE ISSUED TO ANY PERSON UNDER THIS TITLE.

(B) THE SECRETARY MAY ADOPT REGULATIONS THAT LIST THE
CRITERIA FOR A SUSPENSION OF A PERSON'S ENTITLEMENT TO ENGAGE IN AN
ACTIVITY OR ACTIVITIES THAT ARE LICENSED OR PERMITTED UNDER THIS
TITLE.

(C) (1) DURING A PERIOD OF SUSPENSION IMPOSED BY THE
DEPARTMENT, THE PERSON WHOSE ENTITLEMENT TO ENGAGE IN AN ACTIVITY
OR ACTIVITIES HAS BEEN SUSPENDED MAY NOT ENGAGE IN AN ACTIVITY FOR
WHICH THE SUSPENSION WAS IMPOSED.

(2) THE FOLLOWING ARE GROUNDS FOR AN IMMEDIATE
SUSPENSION OF A LICENSE ISSUED UNDER THIS TITLE:

(I) ~~MAKING~~ KNOWINGLY MAKING A FALSE STATEMENT IN
AN APPLICATION;

(II) THREE CONVICTIONS FOR VIOLATIONS OCCURRING ON
SEPARATE DAYS WITHIN ANY 3-YEAR PERIOD OF PROVISIONS UNDER THIS
TITLE;

(III) FAILURE TO SUBMIT A REPORT REQUIRED UNDER THIS
TITLE OR BY REGULATION; OR

(IV) FAILURE OF A NONRESIDENT OF THE STATE TO APPEAR
IN COURT IN ACCORDANCE WITH A CITATION ISSUED BY A NATURAL

1 **RESOURCES POLICE OFFICER, OR TO ANY OTHER PROCESS ISSUED BY ANY**
2 **COURT OF MARYLAND, FOR VIOLATION OF THIS TITLE.**

3 **(3) A PENALTY IMPOSED IN ACCORDANCE WITH THIS SECTION IS**
4 **IN ADDITION TO ANY OTHER PENALTY AUTHORIZED UNDER § 4-1201 OF THIS**
5 **TITLE REGARDING STRIPED BASS.**

6 **(4) THE DEPARTMENT SHALL INITIATE ANY PROCEEDING TO**
7 **SUSPEND A LICENSE UNDER THIS SECTION NOT LATER THAN 6 MONTHS AFTER**
8 **THE TIME FOR FILING AN APPEAL OF THE THIRD CONVICTION UNDER**
9 **PARAGRAPH (2)(II) OF THIS SUBSECTION HAS PASSED.**

10 **(5) (I) BEFORE THE SUSPENSION OF A LICENSE UNDER THIS**
11 **SECTION, THE DEPARTMENT SHALL HOLD A HEARING ON NOT LESS THAN 10**
12 **DAYS' NOTICE TO THE LICENSEE.**

13 **(II) ON THE FAILURE OF A NONRESIDENT OF THE STATE TO**
14 **APPEAR IN A COURT OF THIS STATE AS REQUIRED BY ANY CHARGING**
15 **DOCUMENT ACCUSING THE PERSON OF COMMITTING ANY OFFENSE UNDER THIS**
16 **SUBTITLE, IN ADDITION TO ANY OTHER APPROPRIATE ACTION TAKEN BY THE**
17 **COURT OR THE DEPARTMENT, THE DEPARTMENT MAY SUSPEND IMMEDIATELY**
18 **AND WITHOUT A HEARING ANY LICENSE ISSUED TO THE PERSON UNDER THIS**
19 **TITLE.**

20 4-602.

21 [(a)] With due regard for distribution, abundance, economic value, and
22 breeding habits of fish in nontidal waters, the Secretary may adopt rules and
23 regulations to extend, restrict, or prohibit catching, possessing, purchasing,
24 transporting, or exporting fish from nontidal waters.

25 [(b) In addition to any other penalty provided in this title, any person
26 convicted of violating any rule or regulation the Department adopts, shall be fined \$5
27 for each fish illegally caught. If a person is convicted a second or subsequent time
28 within the same 12-month period for a violation of the rules and regulations the
29 Department adopts, he shall have his angler's license suspended for a period of 12
30 months from the date of the second or subsequent conviction.]

31 [4-626.

32 In addition to any other penalty provided in this title, any person who is
33 convicted of a second violation of any rule or regulation adopted by the Department
34 pursuant to the provision of this subtitle shall have his license suspended if the
35 violation occurs within 12 months of any prior violation of the same rule or
36 regulation.]

1 4-745.

2 (a) (1) Except as provided in subsections (c) and (d) of this section and §
3 4-217 of this title, a person may not fish for finfish in the Chesapeake Bay or in its
4 tributaries up to tidal boundaries without first obtaining a Chesapeake Bay sport
5 fishing license.

6 (2) The license may be obtained from the Department or from any
7 authorized agent of the Department. The following annual license fees shall apply:

8 (i) Resident..... \$15

9 (ii) Short-term license valid for 5 consecutive days from date of
10 issue..... \$6

11 (iii) Nonresident..... \$15

12 (iv) Resident and nonresident blind persons..... No fee

13 (v) Complimentary license under subsection (f) of this
14 section..... No fee

15 (3) Except for a license issued under subsection (d) of this section,
16 every Chesapeake Bay sport fishing license shall be valid for not more than 1 year and
17 shall expire on December 31.

18 (b) (1) The Department may designate a person engaged in a commercial
19 enterprise to sell the Chesapeake Bay sport fishing license as an agent under the
20 Department's control and supervision.

21 (2) As compensation, the agent shall retain \$1 for each license issued.

22 (3) The Chesapeake Bay sport fishing license shall be furnished to an
23 agent upon satisfactory payment or upon consignment and only if the Department is
24 given adequate security to insure ultimate payment by an agent to the Department for
25 the licenses.

26 (4) (i) Except as provided in subparagraph (ii) of this paragraph,
27 all fees collected on behalf of the Department pursuant to this section shall be
28 remitted to the Department in accordance with its rules and regulations for deposit
29 with the State Treasurer to the credit of the Fisheries Research and Development
30 Fund to be used for the replenishment, protection, and conservation of fish stocks
31 caught by recreational fishermen, for enhancement of recreational fishing
32 opportunities, and for research concerning tidal fishery resources. The Department
33 shall publicly report annually the amounts collected and the expenditures.

(ii) In fiscal year 1999 and in each subsequent fiscal year, the Department, for the purposes set forth in subparagraph (iii) of this paragraph, shall use:

1. \$2 from the sale of each license under subsection (a) of this section;
2. \$20 from the sale of each license under subsection (d)(2) of this section; and
3. \$225 of the special charter boat license under subsection (d)(1) of this section.

(iii) The Department shall use the moneys specified in subparagraph (ii) of this paragraph for:

1. Achieving the maximum federal fund apportionments;
2. Management assessment and sportfishing surveys;
- and
3. Angler outreach and public fishing information.

(5) In the preparation of plans for the expenditure of license receipts, the Secretary annually shall solicit the advice and opinions of the Department's Sport Fisheries Advisory Commission, representative fishing and boating associations, and other interested parties.

(c) A person may fish for finfish in the Chesapeake Bay or its tidal tributaries without a Chesapeake Bay sport fishing license if the person:

- (1) Is under the age of 16;
- (2) Possesses a valid commercial license;
- (3) Is fishing from private real property as an owner, family member of an owner, or nonpaying guest of an owner;
- (4) Is fishing with a hook and line from a public bridge or public pier that has been designated by the Department as a free fishing area;
- (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;

1 (6) Is fishing pursuant to any special license issued under subsection
2 (d) of this section;

3 (7) (i) Is on active duty with the armed forces of the United States;

4 (ii) Is a resident of this State;

5 (iii) Is on leave from the armed forces; and

6 (iv) Has, while fishing, a copy of the person's official leave
7 orders;

8 (8) Fishes on a free fishing day designated by the Secretary; or

9 (9) Holds a current resident consolidated senior sport fishing license
10 issued under § 4-216 of this title.

11 (d) (1) The Department may provide by regulation for issuance of a
12 special charter boat license that would be valid for all individuals on a charter boat
13 operated by a licensed fishing guide. The fee shall be:

14 (i) For 6 fishermen or less \$240.

15 (ii) For 7 or more fishermen \$290.

16 (2) (i) The Department may provide by regulation for issuance of
17 an annual special Chesapeake Bay sport fishing license, which when permanently
18 affixed to a boat registered in any state shall authorize any person on the boat to fish
19 for finfish in the Chesapeake Bay or in its tributaries up to tidal boundaries, except
20 that such a license may not be used on a boat that has been hired to take such persons
21 fishing.

22 (ii) The annual fee for this special license shall be \$50.

23 (iii) If a boat owner purchases the special license under this
24 paragraph, the boat owner may fish anywhere in the Chesapeake Bay, whether the
25 boat owner is fishing in the owner's boat, in another person's boat, on land, or
26 elsewhere. The Department shall issue a complimentary Chesapeake Bay sport fishing
27 license to the boat owner who purchases a special license under this paragraph. If a
28 boat to which the special license is affixed has more than one owner, then only the
29 individual applicant who signs the application for the special license shall be entitled
30 to a complimentary Chesapeake Bay sport fishing license under this paragraph.

31 [(e) (1) In addition to any other penalty provided under this title, the
32 Department may suspend a person's entitlement to engage in a particular activity or
33 activities licensed or permitted under this section.

1 (2) During a period of suspension imposed by the Department, the
2 person whose license has been suspended may not engage in an activity for which the
3 license suspension is imposed.

4 (3) The following are grounds for suspension of a license issued under
5 this section:

6 (i) Making a false statement in an application;

7 (ii) Three convictions for violations occurring on separate days
8 within any 3-year period of provisions under this title;

9 (iii) Failure to submit a report required under this title or by
10 regulation; or

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

14 (4) A penalty imposed in accordance with this section is in addition to
15 any other penalty authorized under § 4–1201 of this title regarding striped bass.

16 (5) The Department shall adopt regulations that provide:

17 (i) A schedule of points assigned to various offenses under this
18 title;

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

21 (iii) For suspension of a license for conviction of an offense under
22 this title.

23 (6) The Department shall initiate any proceeding to suspend a license
24 under this section not later than 6 months after the time for filing an appeal of the
25 third conviction under paragraph (3)(ii) of this subsection has passed.

26 (7) Before the suspension of a license under this section, the
27 Department shall hold a hearing on not less than 10 days' notice to the licensee, except
28 that on the failure of a nonresident of the State to appear in a court of this State as
29 required by any charging document accusing the person of committing any offense
30 under this subtitle, in addition to any other appropriate action taken by the court or
31 the Department, the Department may suspend immediately and without hearing any
32 license issued to the person under this title.

(f)] (E) (1) In this subsection, "former prisoner of war" means a person who, while serving in the active military, naval, or air service of the United States, was forcibly detained or interned in the line of duty by an enemy government or its agents, or a hostile force, during a period of armed conflict.

(2) The Department may issue a lifetime complimentary Chesapeake Bay sport fishing license to any Maryland resident who certifies that the resident is a former prisoner of war or a 100% service connected disabled American veteran.

(3) A complimentary license is not transferable and shall be issued on forms the Department designates.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.