

Chapter 392

(House Bill 98)

AN ACT concerning

Department of Natural Resources – Tidal Fish Licenses – Transfer and Suspension

FOR the purpose of prohibiting a certain temporary transferee of a tidal fish license from using the license or receiving a transfer of a certain license during a certain period of time under certain circumstances; altering the grounds for the suspension or revocation of a tidal fish license; repealing the grounds for a certain authorization; altering the requirements for certain regulations adopted by the Department of Natural Resources relating to the suspension and revocation of a license or authorization; and generally relating to tidal fish licenses issued by the Department of Natural Resources.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 4–701(i) and (l)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article – Natural Resources

4–701.

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

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

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

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

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

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

(III) A TEMPORARY TRANSFEREE WHO IS CONVICTED OR RECEIVES A DISPOSITION OF PROBATION BEFORE JUDGMENT OR AN ACCEPTED PLEA OF NOLO CONTENDERE FOR A VIOLATION OF FEDERAL OR STATE FISHERIES LAW THAT RESULTS IN A LICENSE SUSPENSION MAY NOT USE A TIDAL FISH LICENSE ISSUED TO THE INDIVIDUAL OR RECEIVE A TRANSFER OF A TIDAL FISH LICENSE DURING THE PERIOD OF SUSPENSION.

(4) (i) The Department shall establish by regulation a procedure for a licensee, except a fishing guide licensee or a master fishing guide licensee, to voluntarily register the licensee's commercial fishing vessel number on the face of the license.

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

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

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

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

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

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

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

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

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

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

4. Provided a notarized bill of sale.

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

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

(3) The following are grounds for suspension or revocation of a tidal fish license [or an authorization under this section]:

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

(ii) [Conviction of a person for a violation under this title] **A SERIOUS VIOLATION OF ~~ANY~~ A STATE OR FEDERAL COMMERCIAL FISHERIES LAW THAT RESULTS IN A CONVICTION, ~~A DISPOSITION OF PROBATION BEFORE JUDGMENT,~~ OR AN ACCEPTED PLEA OF NOLO CONTENDERE;**

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

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

(4) A penalty imposed in accordance with this subtitle shall be in addition to any other penalty authorized under § 4-1201 of this title regarding striped bass.

(5) The Department, in consultation with the Tidal Fisheries Advisory Commission and the Sport Fisheries Advisory Commission, shall adopt regulations relating to the suspension and revocation of licenses and authorizations issued under this title, including:

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

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

(iii) Suspension or revocation of a license or authorization [or conviction of an offense under this title] **FOR A SERIOUS VIOLATION OF ANY A STATE OR FEDERAL COMMERCIAL FISHERIES LAW THAT RESULTS IN AN INDIVIDUAL RECEIVING A CONVICTION, ~~DISPOSITION OF PROBATION BEFORE JUDGMENT,~~ OR AN ACCEPTED PLEA OF NOLO CONTENDERE;**

(iv) Enhanced penalties for repeated violations of this title; and

(v) Enhanced penalties for violations of provisions of this title that regulate species deemed by the Department to be in need of special protection, including striped bass, crabs, oysters, and menhaden.

(6) Before the suspension or revocation of a tidal fish license under this section, the Department shall hold a hearing upon not less than 10 days' notice to the licensee, except that upon the failure of a nonresident of the State to appear in a court of this State as required by any charging document accusing the person of committing any offense under this title, in addition to any other appropriate action taken by the court or the Department, the Department may suspend immediately and without hearing any license issued to the person under this title.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 4, 2010.