

HOUSE BILL 1253

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3lr1765
CF SB 662

By: **Delegates Jacobs, Otto, Weir, and Wood**

Introduced and read first time: February 8, 2013

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 19, 2013

CHAPTER _____

1 AN ACT concerning

2 **Natural Resources – Commercial Fishing – Licensing**

3 FOR the purpose of altering the annual fees and surcharges for certain commercial
4 fishing licenses and authorizations; requiring that tidal fish licensees with
5 certain authorizations obtain a harvester registration from the Department of
6 Natural Resources; establishing a certain annual fee for the harvester
7 registration; establishing that the harvester registration is nontransferable;
8 authorizing the Department to issue a permit to commercially harvest certain
9 fish species, subject to certain annual fees; authorizing the Department to adopt
10 regulations establishing a permit to commercially harvest certain other fish
11 species, subject to a certain maximum annual fee; repealing a provision of law
12 authorizing a tidal fish licensee to catch striped bass for sale on payment of a
13 certain annual surcharge; altering the amount of a certain annual surcharge for
14 seafood marketing programs assessed on tidal fish licensees; exempting certain
15 nonresident tidal fish licensees from a certain required annual surcharge;
16 requiring the Department to accept applications for certain commercial fish
17 license authorizations and to maintain a waiting list of candidates for each
18 fishing activity in a certain order; repealing provisions of law that authorize the
19 Department to establish and issue a commercial fishing apprenticeship permit,
20 accept applications and annual fees for the permit, issue a certain license to a
21 person who has completed an apprenticeship, adopt certain regulations related
22 to the criteria required for an apprenticeship permit, and otherwise administer
23 a commercial fishing apprenticeship permit process; authorizing a tidal fish
24 licensee to renew a harvester registration annually; repealing a certain
25 provision of law authorizing certain tidal fish license conversions; requiring

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 certain licensees to possess a harvester registration when engaged in certain
2 commercial fishing activity; altering certain standards for determining when a
3 person is required to obtain a seafood dealer authorization; requiring certain
4 persons to obtain a bait harvester permit under certain circumstances;
5 establishing an annual fee for a bait harvester permit; requiring a licensee to
6 provide the Department certain notification and pay a certain pound net
7 activity registration fee in a certain time frame before setting a pound net;
8 authorizing the Governor annually to include a certain appropriation in the
9 State budget for a certain purpose; providing for certain corrections of
10 cross-references and terminology; clarifying certain language; and generally
11 relating to commercial fishing licensing.

12 BY repealing and reenacting, with amendments,
13 Article – Natural Resources
14 Section 4–701, 4–702, and 4–711(i)
15 Annotated Code of Maryland
16 (2012 Replacement Volume)

17 BY repealing
18 Article – Natural Resources
19 Section 4–701.1
20 Annotated Code of Maryland
21 (2012 Replacement Volume)

22 BY repealing and reenacting, without amendments,
23 Article – Natural Resources
24 Section 4–711(a), (b), and (h)
25 Annotated Code of Maryland
26 (2012 Replacement Volume)

27 BY adding to
28 Article – Natural Resources
29 Section 4–711(i)
30 Annotated Code of Maryland
31 (2012 Replacement Volume)

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

34 **Article – Natural Resources**

35 4–701.

36 (a) This section applies to any person who is required under Subtitle 2, 7, 8,
37 9, or 10 of this title to be licensed to guide fishing parties or to catch, sell, buy, process,
38 transport, export, or otherwise deal in fish caught in tidal waters.

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

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

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

5 (ii) For catching crabs, to utilize the number of crew members
6 [indicated on the license] **AUTHORIZED UNDER § 4-814 OF THIS TITLE.**

7 (3) Except for a person receiving a license as a beneficiary of a
8 deceased licensee under subsection (j)(4)(i) of this section, the Department may not
9 issue a tidal fish license to an individual who is younger than 14 years of age.

10 (4) A person may not guide fishing parties or catch, sell, buy, process,
11 transport, export, or otherwise deal in fish caught in tidal waters unless licensed
12 under this section.

13 (c) (1) The license year for every tidal fish license shall be 12 months from
14 September 1 through August 31 of the following year.

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

17 (d) (1) The Department may issue no more than one authorization to a
18 person to engage in each activity under paragraph (2)(ii)1 and 2 of this subsection
19 during a license year.

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

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

25 1. To provide services as:

26 A. A fishing guide in the tidal waters of Maryland –
27 **[\$50] \$100** for a resident and **[\$100] \$200** for a nonresident; and

28 B. A master fishing guide, in addition to the fee under
29 item A of this item – **[\$50] \$100** per vessel

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

32 A. Finfish:

- 1 I. Hook and line only, anywhere: [~~\$37.50~~] **\$100**
- 2 II. All other equipment: [~~\$100~~] **\$150**
- 3 B. Crabs:
- 4 I. Up to 50 pots, trotlines, nets, dip nets, traps, pounds,
5 and scrapes: [~~\$50~~] **\$100**
- 6 II. Over 50 pots, plus any other gear listed in item I of
7 this sub-sub-subparagraph: ~~\$150~~
- 8 C. Clams – \$100
- 9 D. Oysters – \$250 for a dredge boat and [~~\$50~~] **\$100** for
10 other than a dredge boat
- 11 E. Conch, turtles, and lobster – [~~\$50~~] **\$100**
- 12 F. For all activities in item 1A of this subparagraph and
13 in items A through E of this item, unlimited tidal fish – \$300
- 14 3. For one or two crew members employed under § 4–814
15 of this title to enable a licensee to catch crabs under subparagraph (ii)2BII and F of
16 this paragraph with more than 300 pots, the licensee shall pay [~~\$20 for each crew~~
17 member] **AN ADDITIONAL:**
- 18 A. **\$100 FOR UP TO 600 POTS TOTAL PER VESSEL; OR**
- 19 B. ~~\$200~~ **\$150 FOR UP TO 900 POTS TOTAL PER**
20 **VESSEL.**
- 21 4. [Except for a licensee dealing in his own catch, for]
22 **FOR** a person to buy, process, pack, resell, market or otherwise deal in fish caught in
23 the tidal waters of Maryland, seafood dealer [~~– \$150~~]:
- 24 A. **\$50 FOR A PERSON LICENSED UNDER ITEM 2 OF**
25 **THIS SUBPARAGRAPH; OR**
- 26 B. **\$250 FOR A PERSON NOT LICENSED UNDER ITEM**
27 **2 OF THIS SUBPARAGRAPH.**
- 28 5. For a person who is not licensed under this section to
29 land fish caught in out-of-state tidal waters, seafood landing – ~~\$150~~ **\$350**

1 **(E) (1) BEFORE CATCHING FISH FOR SALE UNDER AN**
2 **AUTHORIZATION ISSUED UNDER SUBSECTION (D)(2)(II)2 OF THIS SECTION, A**
3 **TIDAL FISH LICENSEE SHALL OBTAIN A HARVESTER REGISTRATION FROM THE**
4 **DEPARTMENT.**

5 **(2) THE ANNUAL FEE FOR A HARVESTER REGISTRATION IS \$215.**

6 **(3) A HARVESTER REGISTRATION IS NONTRANSFERABLE.**

7 **(F) FOR A TIDAL FISH LICENSE, THE DEPARTMENT MAY ISSUE A**
8 **PERMIT FOR ANY OF THE FOLLOWING ACTIVITIES FOR WHICH THE INDICATED**
9 **ANNUAL FEE HAS BEEN PAID:**

10 **(1) TO CATCH FOR SALE:**

11 **(I) STRIPED BASS:**

12 **1. \$200 FOR A LICENSEE AUTHORIZED UNDER**
13 **SUBSECTION (D)(2)(II)2A OF THIS SECTION; OR**

14 **2. \$150 FOR A LICENSEE AUTHORIZED UNDER**
15 **SUBSECTION (D)(2)(II)2F OF THIS SECTION;**

16 **(II) YELLOW PERCH: \$25;**

17 **(III) HORSESHOE CRAB: \$25;**

18 **(IV) BLACK SEA BASS: \$25; ~~OR~~**

19 **(V) SUMMER FLOUNDER: \$25; OR**

20 **(VI) SNAPPING TURTLE: \$25.**

21 **(2) THE DEPARTMENT MAY ESTABLISH BY REGULATION A**
22 **PERMIT AND AN ANNUAL PERMIT FEE NOT EXCEEDING \$25 FOR ANY SPECIES**
23 **NOT SUBJECT TO A PERMIT UNDER THIS SUBSECTION.**

24 **[(e)] (G) (1) [To catch striped bass for sale:**

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

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

- 1 (2)] (i) A person may not catch oysters for sale without:
- 2 1. Possessing a valid license under this section;
- 3 2. Paying an annual surcharge of \$300; and
- 4 3. Certifying to the Department that the person received
- 5 the publications required under § 4–1006.2 of this title.

6 (ii) The Department shall use the surcharges collected under

7 this paragraph only for oyster repletion activities.

8 **[(3)] (2)** In addition to the normal license fees imposed under

9 subsection (d)(2)(ii)2 and 4 of this section, a licensee shall pay to the Department an

10 annual surcharge **[of \$10] IN THE FOLLOWING AMOUNTS** to be credited to the

11 Seafood Marketing Office of the Department to fund seafood marketing programs

12 which have been approved by the Department:

13 **(I) \$20 FOR A LICENSEE AUTHORIZED UNDER SUBSECTION**

14 **(D)(2)(II)1, 2, 3, OR 5 OF THIS SECTION, IF THE LICENSEE IS NOT ALSO**

15 **AUTHORIZED UNDER SUBSECTION (D)(2)(II)4 OF THIS SECTION; OR**

16 **(II) \$50 FOR A LICENSEE AUTHORIZED UNDER SUBSECTION**

17 **(D)(2)(II)4 OF THIS SECTION, REGARDLESS OF WHETHER THE LICENSEE IS ALSO**

18 **AUTHORIZED UNDER SUBSECTION (D)(2)(II)1, 2, 3, OR 5 OF THIS SECTION.**

19 **[(4)] (3)** (i) 1. In this paragraph, “fishing activities” means

20 those activities that are directly related to catching fish.

21 2. “Fishing activities” does not include the activities of

22 buying, selling, processing, transporting, exporting, or similarly dealing in fish.

23 (ii) **[The Department shall assess annually on] FOR** every

24 nonresident license **[applicant for the applicant’s fishing activities] ISSUED** under

25 Subtitles 7, 8, and 9 of this title, **EXCEPT UNDER SUBSECTION (D)(2)(II)1A OF THIS**

26 **SECTION, THE DEPARTMENT SHALL ASSESS AN ANNUAL SURCHARGE** in addition

27 to the normal license fees imposed by this subsection, **[a surcharge which cumulatively**

28 **for the license year,] WHICH** shall be the greater of:

29 1. An amount equal to the difference between the total

30 fees charged to a Maryland resident engaged in like fishing activities in the state of

31 residence of the nonresident applicant and the total of normal license fees for fishing

32 activities in Maryland; or

2. ~~[\$350]~~ \$450.

1
2 ~~[(f)]~~ **(H)** The Department may assess annually on every person licensed
3 under subsection (d)(2)(ii)2 of this section a surcharge for the costs incurred by the
4 Department for:

5 (1) Fish tags issued to the licensee; and

6 (2) The use by a licensee of a hailing system.

7 ~~[(g)]~~ **(I)** **(1)** **THE DEPARTMENT SHALL ACCEPT APPLICATIONS FOR**
8 **NEW AUTHORIZATIONS TO PARTICIPATE IN FISHING ACTIVITIES UNDER**
9 **SUBSECTION (D)(2)(II)1 OR 2 OF THIS SECTION FROM QUALIFIED PERSONS AND**
10 **MAINTAIN A WAITING LIST OF CANDIDATES FOR EACH FISHING ACTIVITY IN**
11 **ORDER OF THE DATE AND TIME THAT APPLICATIONS ARE RECEIVED.**

12 **(2)** An applicant for a license to provide services as a commercial
13 fishing guide in tidal waters of the State shall supply as part of the application
14 verifiable references to any federal license that is issued by the U.S. Coast Guard to
15 operate a vessel carrying passengers for hire in the applicant’s name, as a condition
16 precedent to engaging as a commercial fishing guide in tidal waters.

17 ~~[(h)]~~ **(1)** Notwithstanding any other provision of this section, the
18 Department may issue an apprenticeship permit for any activity under subsection
19 (d)(2)(ii)1 or 2 of this section to a person who currently resides and has resided for at
20 least 5 years on an island in the State that is at least 3 miles from the mainland.

21 ~~(2)]~~ **(J)** **(1)** The Department may set by regulation targets for the
22 number of tidal fish license authorizations under subsection (d)(2)(ii) of this section to
23 be the number issued between September 1, 1998 and March 31, 1999. The
24 Department may modify by regulation the target number of authorizations based on:

25 (i) Recommendations of the Tidal Fisheries Advisory
26 Commission;

27 (ii) Recommendations of fishery management plans adopted by
28 the Department, the Chesapeake Bay Program, the Atlantic States Marine Fisheries
29 Commission, the Mid-Atlantic Fisheries Management Council, or any other
30 appropriate management body;

31 (iii) The number of people historically participating;

32 (iv) Target species, size, number, weight, incidental catch, total
33 biomass, annual harvest, mortality rates, and other factors which are necessary and
34 appropriate; and

1 (v) The number of authorizations relinquished to the
2 Department under subsection [(k)] (L) of this section.

3 [(3)] (2) (i) The Department shall by regulation limit the total
4 number of commercial authorizations to fish for striped bass not to exceed 1,231
5 participants in the commercial fishery and 499 participants in the charter boat
6 fishery.

7 (ii) The Department shall provide in its regulations for
8 reallocation of any authorizations that may be revoked or voluntarily relinquished to
9 the Department.

10 (iii) The Department shall provide in its regulations for the
11 allocation of any available quota on a monthly basis to assure that all areas of the
12 State have ample opportunity to attain an equitable portion of the available quota.

13 [(i) The Department shall issue a license authorizing participation in a
14 particular fishing activity to a person who has completed the requirements of an
15 apprenticeship under § 4-701.1 of this subtitle.]

16 [(j)] (K) (1) A license or authorization may be transferred only under the
17 provisions of this subsection.

18 (2) A person who desires to obtain a license or authorization by
19 transfer under this subsection shall, for each license or authorization applied for:

20 (i) Pay a \$50 application fee; and

21 (ii) Submit a completed application to the Department.

22 (3) The Department shall review and may approve the permanent
23 transfer of a license or an authorization to a person who is the licensee's spouse,
24 daughter, son, stepchild, grandchild, stepgrandchild, parent, sister, brother,
25 grandparent, aunt, uncle, niece, nephew, father-in-law, mother-in-law, son-in-law,
26 daughter-in-law, sister-in-law, or brother-in-law.

27 (4) (i) On the death of a licensee, the Department shall review and
28 may approve the permanent transfer of a license or authorization to the person
29 indicated on the beneficiary form submitted by the deceased licensee at the time of
30 issuance on the license.

31 (ii) The personal representative of the estate of the deceased
32 licensee may retain the license or authorization for 2 years from the date of
33 appointment as personal representative if:

34 1. The deceased licensee did not indicate a license
35 beneficiary;

1 2. The Department determines that the license
2 beneficiary is not qualified to receive the license or authorization; or

3 3. The license beneficiary does not accept the license or
4 authorization.

5 (iii) On appointment, the personal representative shall notify the
6 Department of the appointment and the intent to retain the license or authorization.

7 (iv) A license or authorization retained under this paragraph
8 may be renewed annually as required by this title.

9 (v) Before the end of the 2-year period, the personal
10 representative may submit a completed transfer application to transfer the license or
11 authorization to a qualified individual.

12 (vi) If a license or authorization is not transferred under
13 subparagraph (i) of this paragraph, and a transfer application is not submitted under
14 subparagraph (ii) of this paragraph, the license or authorization is void.

15 (vii) A person may not operate under the license or authorization
16 of the deceased licensee without approval of the application by the Department.

17 (5) (i) Twice per license year, the Department may approve a
18 temporary transfer of a license or authorization for not more than the remainder of the
19 license year.

20 (ii) A temporary transferee who is convicted or receives an
21 accepted plea of nolo contendere for a violation of federal or State fisheries law that
22 results in a license suspension or revocation may not engage in that fishing activity or
23 receive a transfer of a tidal fish license during the period of suspension or revocation.

24 (6) The Department may approve the permanent transfer of a license
25 or authorization under this subsection from a person who has held a valid tidal fish
26 license for at least 2 years to a person who provides a notarized bill of sale for the
27 license or authorization being transferred.

28 (7) (i) Except for a fishing guide licensee or a master fishing guide
29 licensee, a licensee may allow one individual to use the licensee's commercial fishing
30 vessel to engage in activities authorized under the license if:

31 1. The licensee's commercial fishing vessel number is
32 registered on the license; and

33 2. The licensee has [indicated the name of] **IDENTIFIED**
34 the assigned individual to the Department on a form provided by the Department.

1 (ii) A licensee may change the assignment once per license year.

2 (iii) If a licensee allows an individual to utilize a vessel under
3 this paragraph, the individual and the licensee shall be held responsible for any
4 violations committed by the individual using the vessel.

5 **[(k)] (L)** (1) Notwithstanding the qualification criteria for a license and
6 authorization to engage in an activity under this section, licensees may renew **A**
7 **HARVESTER REGISTRATION AND** any valid existing authorizations on their licenses
8 annually.

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

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

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

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

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

20 **[(l)] (M)** (1) **[**Before September 1, 2012, at the time of license renewal, a
21 licensee who possesses three or more authorizations under subsection (d)(2)(ii)1 and
22 2A through E of this section, one of which is a crabbing authorization, may relinquish
23 each authorization and receive an authorization under subsection (d)(2)(ii)2F of this
24 section.

25 (2) (i) A licensee who possesses an unlimited tidal fish license
26 under subsection (d)(2)(ii)2F of this section may relinquish the unlimited tidal fish
27 license and receive one or more authorizations under subsection (d)(2)(ii)1A through E
28 of this section.

29 (ii) If the fee for an unlimited tidal fish license is less than the
30 total of the fees for authorizations received by a licensee under subparagraph (i) of this
31 paragraph, the licensee shall pay to the Department an amount equal to the difference
32 between the fee for the unlimited tidal fish license and the total of the fees for the
33 authorizations received.

1 **[(3)] (2)** The Department shall adjust the number of authorizations
2 under subsection (d)(2)(ii) of this section to reflect the number of license conversions
3 under **[paragraphs (1) and (2)] PARAGRAPH (1)** of this subsection.

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

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

11 (3) The following are grounds for suspension or revocation of a tidal
12 fish license:

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

15 (ii) A serious violation of a State or federal commercial fisheries
16 law that results in a conviction or an accepted plea of nolo contendere;

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

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

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

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

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

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

33 (iii) Suspension or revocation of a license or authorization for a
34 serious violation of a State or federal commercial fisheries law that results in an
35 individual receiving a conviction or an accepted plea of nolo contendere;

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

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

5 (6) (i) Before the suspension or revocation of a tidal fish license
6 under this section, the Department shall notify the licensee in writing of the licensee's
7 right to a hearing on request.

8 (ii) If a licensee submits a written request for a hearing to the
9 Department within 30 days after the date that the notice required under this
10 paragraph is mailed, the Department shall:

11 1. Hold a hearing after providing at least 10 days' notice
12 to the licensee; and

13 2. Conduct the hearing in accordance with Title 10,
14 Subtitle 2 of the State Government Article.

15 (iii) The Department may suspend a commercial license issued
16 under this title without a hearing if:

17 1. The licensee does not submit a written request for a
18 hearing; or

19 2. The licensee fails to appear for a scheduled hearing
20 for which the Department provided notice.

21 ~~[(n)]~~ **(O)** (1) If a person is engaged in an activity for which a license or
22 authorization is required under this section, the person shall possess:

23 (i) Any required license, authorization, **REGISTRATION**, or
24 permit; and

25 (ii) For a person to whom a license or authorization has been
26 temporarily transferred, documentation indicating the Department's approval of the
27 temporary transfer application.

28 (2) (i) This paragraph does not limit the Department's authority to
29 inspect books, statements, and accounts under § 4-206(b) of this title.

30 (ii) The licensee or any person to whom a licensee has
31 transferred a license under subsection ~~[(j)]~~ **(K)** of this section shall allow any police
32 officer, at reasonable times, including when the licensee or person is engaged in an
33 activity that requires a license under this section, to inspect:

- 1 1. The license, authorization, or permit;
- 2 2. Any applicable application to transfer the commercial
3 tidal fish license approved by the Department for a temporary transfer;
- 4 3. Commercial fishing vessels;
- 5 4. Vehicles used to transport fish for commercial
6 purposes; and
- 7 5. Fish businesses owned or operated by a person
8 licensed under this section.

9 (iii) Inspections of vessels, vehicles, and businesses authorized
10 under this paragraph shall be restricted to inspections of fishing gear and places
11 where fish may be stored.

12 (iv) Inspections of businesses authorized under this paragraph
13 may be conducted in any building other than a dwelling house.

14 (3) (i) An inspector may seize fishing gear or fish found during an
15 inspection under this subsection that is used or possessed in connection with a
16 violation of this title or a regulation adopted under this title.

17 (ii) Fishing gear seized under this paragraph shall be held by
18 the Department pending disposition of court proceedings, and on conviction the
19 property seized or proceeds from the seizure shall be forfeited to the State for
20 destruction or disposition as the Department may deem appropriate.

21 (iii) The Department may dispose of fish seized under this
22 paragraph at its discretion.

23 [(o)] (P) The Department shall assign a permanent identification number to
24 each licensee. A licensee shall display the identification number on every vessel,
25 vehicle, gear, or place of business, as the Department may require by regulation.

26 [(p)] (Q) The Department shall:

27 (1) Deposit to the credit of the Fisheries Research and Development
28 Fund all fees received for tidal fish licenses, authorizations, and permits under this
29 section; and

30 (2) Use the funds received from the sale of striped bass surcharges for
31 striped bass management and enforcement purposes.

1 **[(q)] (R)** (1) This subsection applies only to a person who, on April 1,
2 1997:

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

4 (ii) Either:

5 1. Owned two or more vessels used to carry passengers
6 for fishing;

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

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

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

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

14 (ii) Supplying with the application proofs of ownership of the
15 required vessels; and

16 (iii) Paying the master fishing guide license fee set forth in
17 subsection (d)(2)(ii)1 of this section.

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

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

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

25 1. One person for 10 vessels;

26 2. Two persons for 11 to 20 vessels;

27 3. Three persons for 21 to 30 vessels;

28 4. Four persons for 31 to 40 vessels;

29 5. Five persons for 41 to 50 vessels; and

1 6. Six persons for 51 or more vessels.

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

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

8 (5) If a master fishing guide employs another person to operate a
9 vessel to carry passengers for fishing, for purposes of the license suspension criteria in
10 subsection (m) of this section, the master fishing guide shall be held responsible for
11 any violations committed by the person employed to operate the vessel.

12 [4-701.1.

13 (a) This section applies to a person who does not qualify for a license
14 required under Subtitle 2, Subtitle 7, Subtitle 8, Subtitle 9, or Subtitle 10 of this title,
15 except for a seafood dealer license or a seafood landing license, to be licensed to guide
16 fishing parties or to catch, sell, buy, process, transport, export, or otherwise deal in
17 fish caught in tidal waters.

18 (b) Except as provided under subsection (h) of this section, the Department
19 may issue an apprenticeship permit to authorize a person to gain practical experience
20 in the presence of a tidal fish licensee regarding commercial fishing activities.

21 (c) An apprenticeship permit is valid for up to 3 years from the date of
22 issuance and may be renewed for 1 year if the applicant shows good cause.

23 (d) The fees for an apprenticeship permit shall be the same as the annual
24 fees applied under § 4-701(d) of this subtitle for each commercial fishing activity for
25 the term of the apprenticeship and the first license year.

26 (e) (1) The Department may accept an application for an apprenticeship
27 permit from a person who is at least 14 years of age and does not qualify for a
28 commercial tidal fish license or an authorization for a particular fishing activity.

29 (2) The Department may issue an apprenticeship permit if the number
30 of tidal fish authorizations issued for that fishing activity is less than the target
31 number established by regulation.

32 (3) The Department shall maintain a list in chronological order of
33 persons who have applied for an apprenticeship permit but have not been issued an
34 apprenticeship permit due to the target number already having been issued.

1 (4) The Department shall issue an apprenticeship permit to the first
2 person on the list when a permit becomes available.

3 (5) The Department may not issue an apprenticeship permit for a
4 particular fishing activity unless the number of the tidal fish authorizations issued for
5 the particular activity is below the target number or a review by the General Assembly
6 has been completed.

7 (f) The Department shall issue a tidal fish license or authorization in
8 accordance with § 4-701(i) of this subtitle to persons who have completed the criteria
9 established in subsection (g) or (h) of this section.

10 (g) (1) (i) The practical experience of a permittee shall consist of:

11 1. For each commercial fishing activity authorized under
12 § 4-701(d)(2)(ii) of this subtitle, 150 days of experience in the fishing activity applied
13 for;

14 2. For multiple fishing activities under § 4-701(d)(2)(ii)
15 of this subtitle and an unlimited tidal fish authorization, 180 days of experience in at
16 least two commercial fishing activities; and

17 3. For the purposes of subparagraph (ii) of this
18 paragraph, at least 60 days of practical experience spent in separate commercial
19 fishing activities.

20 (ii) A permittee shall obtain the practical experience required
21 under this subsection within 10 years before applying for a license or an authorization
22 under subsection (f) of this section.

23 (2) Except as provided in paragraph (6) of this subsection, the
24 practical experience shall be documented by the permittee on the forms provided by
25 the Department and submitted to the Department on a monthly basis when engaging
26 in practical experience. The forms shall include:

27 (i) Number of days spent gaining practical experience under
28 the presence of a tidal fish licensee;

29 (ii) Particular fishing activities;

30 (iii) The signature of a tidal fish licensee certifying that the
31 recorded information regarding the practical experience in fishing activities is true
32 and correct; and

33 (iv) Copies of appropriate income tax forms documenting the
34 permittee's compensated employment in the presence of a tidal fish licensee.

1 (3) (i) An applicant for an apprenticeship permit may begin to
2 complete the requirements of this subsection if the applicant posts the fee for the
3 apprenticeship permit.

4 (ii) This paragraph may not be construed to alter the applicant's
5 position on the waiting list established under subsection (e)(3) of this section.

6 (4) An applicant shall be issued an apprenticeship permit in
7 accordance with subsection (e)(4) of this section.

8 (5) An applicant may be credited with the completed requirements
9 that were accrued and documented in accordance with paragraph (2) or (6) of this
10 subsection before being issued an apprenticeship permit.

11 (6) (i) This paragraph shall apply only to an individual who:

12 1. Served as a crew member to a tidal fish licensee or a
13 person that holds a commercial fishing license issued by another state or the federal
14 government;

15 2. Held a Maryland Provisional Chesapeake Bay
16 Charter Boat Permit in accordance with § 4-210.2 of this title;

17 3. Held a tidal fish license and has not permanently
18 transferred a tidal fish license within the past 24 months in accordance with § 4-701(j)
19 of this subtitle;

20 4. Held a temporary transfer of a tidal fish license;

21 5. Harvested fish from the waters of the Exclusive
22 Economic Zone and landed the fish in the State;

23 6. Holds a commercial fishing license issued by another
24 state or the federal government; or

25 7. Held a commercial fishing license issued by another
26 state or the federal government.

27 (ii) Practical experience shall be documented by:

28 1. Stating the number of days spent engaged in a
29 particular fishing activity up to the minimum number of days required under
30 paragraph (1) of this subsection on forms and in a manner provided by the
31 Department; and

32 2. Any fishing activity reports required by the State, by
33 another state, or by the federal government.

1 (iii) For an individual who served as a crew member to a tidal
2 fish licensee or person that holds a commercial fishing license issued by another state
3 or the federal government, practical fishing experience shall be documented by:

4 1. Stating the number of days spent serving as a crew
5 member engaged in a particular fishing activity up to the minimum number of days
6 required under paragraph (1) of this subsection, certified in writing by the tidal fish
7 licensee or person that holds a commercial fishing license issued by another state or
8 the federal government on forms provided by the Department; and

9 2. Any fishing activity reports of the tidal fish licensee
10 required by the State, another state, or by the federal government.

11 (7) In addition to practical experience, before a license may be issued
12 to a permittee, the permittee shall complete an 8-hour program approved by the
13 Department concerning commercial fishing activities.

14 (h) (1) The Department shall adopt regulations to establish criteria for
15 the practical experience for an individual who holds a valid tidal fish license and who
16 has applied for an additional authorization other than a fishing guide authorization or
17 an unlimited tidal fish authorization.

18 (2) The criteria established in accordance with paragraph (1) of this
19 subsection shall include documentation at the time of application for an authorization,
20 for the previous 2 years, that at least 20% of the individual's gross income was from
21 the individual's commercial fishing activities.]

22 4-702.

23 (a) Except as provided in subsection (b) of this section, a person may not
24 buy[, sell, ship, transport, or otherwise deal in] **FOR RESALE** finfish, **CRABS**, or
25 shellfish **FROM WATERS OF THE STATE** unless the person is licensed [by the
26 Department] **AND AUTHORIZED AS A SEAFOOD DEALER UNDER § 4-701 OF THIS**
27 **SUBTITLE.**

28 (b) The following persons are not required to obtain a [license] **SEAFOOD**
29 **DEALER AUTHORIZATION** under this section:

30 (1) [A person licensed by the Department to catch finfish or shellfish
31 for sale;

32 (2) A retail market, restaurant, or other establishment where finfish
33 or shellfish are sold or served to ultimate consumers, and not for resale;

1 (3)] A person who buys finfish, **CRABS**, or shellfish for personal use or
2 consumption; [and]

3 [[4)] **(2)** A person who [catches and sells as bait] **BUYS FOR RESALE**
4 finfish or shellfish species defined as bait under subsection (c) of this section; **AND**

5 **(3) A PERSON WHO BUYS FINFISH, CRABS, OR SHELLFISH FROM A**
6 ~~**TIDAL FISH LICENSEE WITH A HARVESTER REGISTRATION AND PERSON WITH A**~~
7 ~~**SEAFOOD DEALER AUTHORIZATION UNDER § 4-701 OF THIS SUBTITLE.**~~

8 (c) **(1) ANY PERSON NOT OTHERWISE LICENSED UNDER §**
9 **4-701(D)(2)(II)2 OF THIS SUBTITLE THAT HARVESTS AND SELLS FINFISH OR**
10 **SHELLFISH SPECIES DEFINED AS BAIT UNDER PARAGRAPH (3) OF THIS**
11 **SUBSECTION SHALL OBTAIN A BAIT HARVESTER PERMIT FROM THE**
12 **DEPARTMENT.**

13 **(2) THE ANNUAL FEE FOR A BAIT HARVESTER PERMIT IS \$25.**

14 **(3) The Department shall adopt regulations defining which species of**
15 **finfish and shellfish may be caught and sold as bait [under subsection (b)(4) of this**
16 **section] IN ACCORDANCE WITH A BAIT HARVESTER PERMIT ISSUED UNDER THIS**
17 **SUBSECTION.**

18 (d) The Department shall adopt regulations to define the species that are
19 included as shellfish under this section.

20 4-711.

21 (a) A person may not set any pound net or any line of these nets that is
22 greater in length than one third the distance across the waters of the bay, sound,
23 river, creek, cove, or inlet where it is set, or is set so that it impedes or obstructs
24 navigation on or blocks in any way the main channel of the bay, sound, river, creek,
25 cove, or inlet. The length limit provided here shall not be construed to apply to any
26 line of nets running parallel to the bank or shore of any bay, sound, river, creek, cove,
27 or inlet, but no net may be set across the mouth on any tributary, harbor, or
28 navigation channel.

29 (b) A person may not set at any time a pound net within 4500 feet of another
30 pound net in the Chesapeake Bay and within 1500 feet in a tributary of the
31 Chesapeake Bay, measured at right angles to the line of stakes. Every pound net set
32 licensed in the Chesapeake Bay or one of its tributaries may retain the locations it
33 lawfully occupied on June 1, 1949. Except as otherwise provided by this title, a person
34 may not set at any time a fyke net within 300 feet of a pound net, measured at right
35 angles to the line of stakes. A person may set any fyke net closer to any pound net
36 than the distance provided in this subsection if the owner of the pound net location
37 gives written permission.

1 (h) (1) Every licensee shall:

2 (i) Maintain the licensee's stakes in good condition; and

3 (ii) Promptly remove and renew any stake that may be
4 unsound, broken, or liable to go adrift.

5 (2) A licensee may not permit or allow to remain in the water:

6 (i) Any pound net stake for a period greater than 30 days
7 following the removal of the net from each stake;

8 (ii) Any pound net or stake for a period greater than 30 days
9 following the discontinuance of fishing of the net; or

10 (iii) Any pound net or stake between January 1 and January 31
11 of any year unless the owner of the pound net or stake notifies the Department by
12 certified mail, return receipt requested, that the net is being actively fished.

13 (3) A licensee who fails to comply with the provisions of this
14 subsection is guilty of a misdemeanor and upon conviction is subject to a fine of at
15 least \$200 and not exceeding \$1,000 with costs imposed in the discretion of the court.

16 (4) For a licensee who is convicted twice within 2 years of violating
17 paragraph (1) of this subsection, the Department may suspend the licensee's striped
18 bass authorization in the following year.

19 **(I) BEFORE SETTING A POUND NET IN ACCORDANCE WITH THIS**
20 **SECTION AND THE REGULATIONS ADOPTED UNDER SUBSECTION (J) OF THIS**
21 **SECTION, A LICENSEE SHALL ENSURE THAT, AT LEAST 7 DAYS BEFORE THE**
22 **SETTING OF THE NET, THE DEPARTMENT RECEIVES:**

23 **(1) NOTICE FROM THE LICENSEE ~~ON A FORM PROVIDED BY THE~~**
24 **~~DEPARTMENT~~ THAT THE POUND NET WILL BE SET AND ACTIVELY FISHED; AND**

25 **(2) A POUND NET ACTIVITY REGISTRATION FEE OF \$20.**

26 **[(i)] (J)** (1) The Department may adopt regulations on the placement of
27 pound or stake nets, including a limit on the number of locations of pound nets that
28 may be assigned to a licensee.

29 (2) In the regulations adopted under paragraph (1) of this subsection,
30 the Department may impose a limit of up to eight locations of pound nets that may be
31 assigned to a licensee.

1 SECTION 2. AND BE IT FURTHER ENACTED, That, beginning in fiscal year
2 2014 and each fiscal year thereafter, the Governor may include in the State budget an
3 appropriation from the General Fund to augment the increase in revenues generated
4 for and received by the Department of Natural Resources under this Act.

5 SECTION 3. AND BE IT FURTHER ENACTED, That the publishers of the
6 Annotated Code of Maryland, in consultation with and subject to the approval of the
7 Department of Legislative Services, shall correct, with no further action required by
8 the General Assembly, cross-references and terminology rendered incorrect by this
9 Act or by any other Act of the General Assembly of 2013 that affects provisions
10 enacted by this Act. The publishers shall adequately describe any such correction in an
11 editor's note following the section affected.

12 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 July 1, 2013.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.