

CHAPTER 263
FORMERLY
HOUSE BILL NO. 343

AN ACT TO AMEND TITLE 7 RELATING TO THE TRANSFER OF FINFISH, EEL FISHING AND SHELLFISH PERMITS AND LICENSES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 7 of the Delaware Code by making insertions as shown by underlining as follows:

PART III TRANSFERS

CHAPTER 29. TRANSFER OF FINFISH, EEL FISHING AND SHELLFISH PERMITS AND LICENSES.

§ 2901. Applicability.

The provision of this Chapter shall apply to the fisheries covered by Chapters 9, 19, 21, 23, 24, 25, 26, 27 and 28 of Title 7 of the Delaware Code which are or become closed to new entrants.

§ 2902. Transfers of Permits and licenses.

Any person who holds a valid permit or license issued by the Department for any of the fisheries referenced and subject to § 2901 of this Chapter shall be entitled to assign or transfer such permit or license to an eligible person as defined in this Chapter under terms and conditions agreeable to the permit or license holder and the assignee or transferee.

§ 2903. Eligibility.

In order to be eligible for the transfer of a permit or license under this Chapter the assignee or transferee of the permit or license shall be any of the following:

- (a) An apprentice with at least 150 days of commercial fishing experience;
- (b) An alternate or designee with actual fishing experience during at least one calendar year; or
- (c) The holder of a valid permit or license for any of the fisheries covered under § 2901 of this Chapter with actual fishing experience during at least two calendar years.

Actual fishing experience as provided herein may be established by catches reported by or attributed to the prospective assignee or transferee engaged in fishing.

§ 2904. Death, incapacity and disability.

(a) In the event of the death of a permit or license holder covered by this Chapter any permit or license of the decedent may be transferred as follows:

1. The decedent may by Will or other written document designate the recipient of any permit or license, provided however, that if the recipient is not eligible to receive the permit or license under the provisions of § 2903 of this Chapter, the recipient shall have two (2) years from the date of death of the permit or license holder to transfer the permit or license to an eligible person, otherwise the permit or license shall be relinquished.

2. If the decedent has not designated the recipient of the permit or license as provided in subparagraph (a) (1) above, the executor or personal representative of the estate of the decedent shall be entitled to transfer any permit or license to an eligible person within two years of the date of death of the permit or license holder, otherwise the permit or license shall be relinquished.

3. The provisions of this subsection (a) shall apply to any permit or license holder who died on or after January 1, 2010.

(b) In the event of the mental incapacity of a permit or license holder, the guardian, attorney-in-fact, or other person authorized to act on behalf of the incapacitated license or permit holder, shall be entitled to transfer any permit or license to an eligible person within two years of the date the guardian, attorney-in-fact, or other person authorized to act on behalf of the incapacitated license or permit holder is entitled to act on behalf of the incapacitated permit or license holder, otherwise the permit or license shall be relinquished.

(c) In the event of the physical disability of a permit or license holder, the permit or license holder with the disability shall be entitled to assign any permit or license to an eligible person in accordance with § 2902 of this Chapter.

(d) Any person authorized to act on behalf of any permit or license holder pursuant to subsections (a) and (b) of this Section shall be entitled to assign the permit or license in accordance with § 2902 of this Chapter to an eligible person prior to the time of transfer or relinquishment of the permit or license.

§2905. Notification and transfer or assignment.

(a) Any person holding a permit or license, or such persons authorized representative as provided herein, shall provide written notification to the Department of the intent to transfer or assign the permit or license, and provide such other information as may be necessary to establish the eligibility to make the transfer or assignment in accordance with this Chapter.

(b) The Department shall process notifications as provided herein within thirty (30) days of the date of receipt of the notification and other documentation, and provide a written response indicating approval or disapproval of the transfer or assignment. For any disapproval the Department shall indicate the reasons and any actions needed to obtain approval.

(c) Any permit or license which is approved for transfer or assignment by the Department shall include the allotment of catch or other entitlements associated with the permit or license.

§ 2906. Savings.

The provisions of this chapter shall be in addition to and not affect any other entitlements or allowances regarding the transfer or assignment of permits and licenses covered by this Chapter.

Approved June 19, 2012