

HOUSE BILL 202

Unofficial Copy
M2

2004 Regular Session
(4lr1171)

ENROLLED BILL

-- *Environmental Matters/Education, Health, and Environmental Affairs* --

Introduced by **Delegates Owings, Bohanan, Boutin, Cane, Cluster, Donoghue,
Frush, Harrison, Hennessy, Jameson, Jennings, McIntosh, Minnick,
Mitchell, O'Donnell, Rudolph, Sossi, Weir, and Wood**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER 500

1 AN ACT concerning

2 **Department of Natural Resources - Finfishing - Closure of State Waters**

3 FOR the purpose of ~~prohibiting~~ authorizing the Department of Natural Resources
4 ~~from completely closing to close~~ an area of State waters to all finfishing ~~unless~~
5 if the Department satisfies certain requirements; requiring the Department to
6 publicize in certain ways certain information regarding certain public hearings
7 and to make a certain report available at a certain time; requiring the
8 Department to prepare a certain report at certain times; ~~requiring the~~
9 ~~Department to reopen a certain area under a certain circumstance~~; providing for
10 the application of this Act; and generally relating to certain closures of State
11 waters to finfishing.

12 BY adding to

13 Article - Natural Resources

14 Section 4-215.1

1 Annotated Code of Maryland
2 (2000 Replacement Volume and 2003 Supplement)

3 Preamble

4 WHEREAS, The waters of Maryland are among the State's most renowned
5 resources; and

6 WHEREAS, Effective assessment, management, and planning in the
7 conservation of Maryland waters are vital tools in the protection of the aquatic
8 environment; and

9 WHEREAS, There are more than 700,000 Maryland recreational anglers, and
10 recreational fishing is the most popular outdoor sporting activity in the State; and

11 WHEREAS, Recreational fishing provides more than 11,000 jobs in the State in
12 the retail, wholesale, and manufacturing sectors, and its average annual total
13 economic output is estimated to surpass \$1.06 billion; and

14 WHEREAS, Commercial fishing contributes an additional estimated economic
15 output of \$100.4 million per year, and 7,600 licensed harvesters, 225 dealers, and
16 more than 2,000 processing jobs rely on the productivity of State waters for their
17 livelihoods; and

18 WHEREAS, These commercial fisheries supply hundreds of local and national
19 restaurants and retail seafood outlets with the high quality seafood for which
20 Maryland is world famous; and

21 WHEREAS, The conservation of the State's aquatic resources and fisheries is in
22 the best interests of all of Maryland's citizens, and the General Assembly regards
23 fishing in Maryland waters as critical to the State's economy and way of life; and

24 WHEREAS, The sports fishery and commercial fishery alike have historically
25 demonstrated sound conservation ethics by seeking and supporting effective fishery
26 management plans and by participating in voluntary research and educational
27 outreach programs; and

28 WHEREAS, The General Assembly desires to establish a process to govern the
29 complete closure of an area of State waters to all finfishing throughout the year; now,
30 therefore,

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

33 **Article - Natural Resources**

34 4-215.1.

35 (A) THE PROVISIONS OF THIS SECTION DO NOT APPLY IF:

1 (1) THE DEPARTMENT OF THE ENVIRONMENT HAS DETERMINED THAT
2 IT IS NECESSARY TO CLOSE AN AREA OF STATE WATERS TO FINFISHING FOR THE
3 PROTECTION OF THE PUBLIC HEALTH AND SAFETY;

4 (2) AN ABATEMENT OR A SUMMARY ABATEMENT OF A STATE OF
5 NUISANCE IS NECESSARY UNDER § 4-205.1 OF THIS SUBTITLE; OR

6 (3) THE DEPARTMENT CLOSES AN AREA OF STATE WATERS:

7 (I) FOR THE STOCKING OF COLDWATER TROUT; OR

8 (II) IN ORDER TO PROVIDE A SECURITY ZONE ADJACENT TO A
9 PRODUCTION HATCHERY.

10 (B) THE DEPARTMENT MAY ~~NOT~~ COMPLETELY CLOSE AN AREA OF STATE
11 WATERS TO ALL FINFISHING ~~UNLESS IF~~ THE DEPARTMENT:

12 (1) IN A WRITTEN REPORT MADE AVAILABLE TO THE GENERAL PUBLIC:

13 (I) ~~FINDS~~ MAKES A FINDING THAT THE CLOSURE IS NECESSARY,
14 AFTER DUE CONSIDERATION OF:

15 1. THE SCIENTIFIC BASIS FOR THE ~~FINDING~~ CLOSURE;

16 2. THE PURPOSE OF THE CLOSURE;

17 3. THE RATIONALE FOR THE SELECTION OF THE SPECIFIC
18 AREA TO BE CLOSED;

19 4. THE SUFFICIENCY OF THE AREA CLOSED TO GENERATE
20 THE BENEFITS PROJECTED; AND

21 5. THE LIKELIHOOD THAT THE SAME OBJECTIVE COULD BE
22 EFFECTIVELY ACCOMPLISHED THROUGH THE USE OF ALTERNATIVE MANAGEMENT
23 MEASURES; AND

24 (II) DEVELOPS PROTOCOLS AND A REPORTING TIMELINE TO
25 MONITOR AND EVALUATE THE EFFECTIVENESS OF THE CLOSURE; AND

26 (2) HOLDS AT LEAST ONE PUBLIC HEARING IN ACCORDANCE WITH THE
27 REQUIREMENTS UNDER SUBSECTION ~~(C)~~ (D) OF THIS SECTION.

28 (C) THE REPORTING TIMELINE REQUIRED UNDER SUBSECTION (B)(1)(II) OF
29 THIS SECTION SHALL PROVIDE FOR A WRITTEN REPORT AS OFTEN AS APPROPRIATE
30 UNDER THE CIRCUMSTANCES BUT AT LEAST AS OFTEN AS EVERY 3 YEARS FROM THE
31 DATE OF CLOSURE.

32 ~~(C)~~ (D) (1) FOR 2 SUCCESSIVE WEEKS IN ADVANCE OF A PUBLIC HEARING
33 REQUIRED UNDER SUBSECTION (B)(2) OF THIS SECTION, THE DEPARTMENT SHALL:

1 (I) POST A NOTICE OF THE DATE, TIME, PLACE, AND PURPOSE OF
2 THE HEARING IN A PROMINENT POSITION ON THE DEPARTMENT'S OFFICIAL
3 INTERNET WEBSITE; AND

4 (II) ADVERTISE THE DATE, TIME, PLACE, AND PURPOSE OF THE
5 HEARING IN AT LEAST:

6 1. ONE NEWSPAPER OF GENERAL DAILY CIRCULATION IN
7 THE STATE; AND

8 2. ONE NEWSPAPER CIRCULATED IN THE AFFECTED REGION
9 OF EACH COUNTY IN WHICH WATERS MAY BE DIRECTLY AFFECTED BY THE
10 PROPOSED CLOSURE.

11 (2) AT LEAST 15 DAYS BEFORE THE PUBLIC HEARING, THE DEPARTMENT
12 SHALL MAKE AVAILABLE TO THE GENERAL PUBLIC THE REPORT REQUIRED UNDER
13 SUBSECTION (B)(1) OF THIS SECTION.

14 ~~(D)~~ (E) ~~(1)~~ ~~WITHIN 3 YEARS OF FOLLOWING A CLOSURE OF A CLOSURE OF~~
15 STATE WATERS UNDER THIS SECTION ~~AND AT LEAST EVERY 3 YEARS THEREAFTER,~~
16 IN A WRITTEN REPORT MADE AVAILABLE TO THE GENERAL PUBLIC AND IN
17 ACCORDANCE WITH THE REPORTING TIMELINE ESTABLISHED UNDER SUBSECTION
18 (B)(1)(II) OF THIS SECTION, THE DEPARTMENT SHALL:

19 ~~(1)~~ (1) BASED ON THE PROTOCOLS ADOPTED UNDER
20 SUBSECTION (B)(1)(II) OF THIS SECTION, EVALUATE THE EFFECTIVENESS OF THE
21 CLOSURE IN ACCOMPLISHING ITS OVERALL MANAGEMENT OBJECTIVES; AND

22 ~~(2)~~ (2) DETERMINE WHAT, IF ANY, MANAGEMENT
23 MODIFICATIONS WOULD BE APPROPRIATE, INCLUDING THE REOPENING OF THE
24 CLOSED AREA.

25 ~~(2)~~ ~~IF THE DEPARTMENT DOES NOT TIMELY REPORT ON A CLOSED AREA~~
26 ~~AS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT~~
27 ~~SHALL PROMPTLY REOPEN THE AREA.~~

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
29 construed to apply only prospectively and may not be applied or interpreted to have
30 any effect on or application to any finfish management plan or any amendment to an
31 approved finfish management plan adopted before the effective date of this Act.

32 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
33 effect June 1, 2004.

