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THE ATTORNEY GENERAL OF MARYLAND
OFFICE OF COUNSEL TO THE GENERAL ASSEMBLY

April 20, 2011

The Honorable Martin O'Malley
Governor of Maryland
State House
100 State Circle
Annapolis, Maryland 21401-1991

Re: House Bill 111

Dear Governor O'Malley:

We have reviewed House Bill 111, "Department of Natural Resources - Fishing - Regulatory Authority," for constitutionality and legal sufficiency. While we approve the bill, a severable portion thereof may not be given effect as a result of a defect in the title. It is our view that this problem may be fixed in next year's corrective bill.

House Bill 111 makes three changes related to fishing in the State: 1) it permits the Secretary of Natural Resources to adopt regulations to define and govern the use of certain types of commercial fishing gear; 2) it repeals a requirement that a person have a valid license to catch finfish before they may catch or attempt to catch fish using certain equipment; and 3) it permits the Department of Natural Resources to adopt regulations to prohibit a tidal fish licensee from obstructing the cull ring of a hard crab pot at any time of the year to catch peeler crabs. The first two of these changes are adequately described in the title of the bill. The third, which newly permits regulation on the subject of obstructing the cull ring of a hard crab pot by repealing an existing prohibition on adoption of this regulation, is described in the title as "prohibiting the Department from adopting regulations governing the use of certain crabbing gear for certain purposes."

Maryland Constitution Article III, § 29 provides in relevant part that "every Law enacted by the General Assembly shall embrace but one subject, and that shall be described in its title." It has long been established that a portion of a bill that is not described in the title cannot be given effect, but must be severed from the remainder of the bill, which can then be given effect. *Davis v. State*, 7 Md. 151, 160-161 (1854); *State's Attorney v. Triplett*, 255 Md. 270, 281-282 (1969). As a result, it is our view that

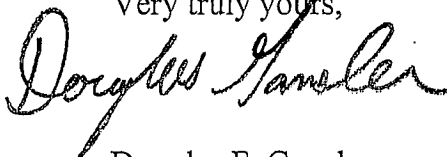
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House Bill 111 may be signed into law, and the provisions that are properly described in the title may be given effect, but that the Department may not adopt the crab pot regulations mentioned in the bill until an act has been passed with a title correctly describing that provision.

Very truly yours,

A handwritten signature in cursive script that reads "Douglas F. Gansler". The signature is written in black ink and is positioned above the printed name and title.

Douglas F. Gansler
Attorney General

DFG/KMR/kk

cc: The Honorable John P. McDonough
Joseph Bryce
Karl Aro