

SENATE BILL 398
EMERGENCY BILL

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M2

1998 Regular Session
(8r1798)

ENROLLED BILL

-- Economic and Environmental Affairs/Environmental Matters --

Introduced by **Senators Collins, Frosh, Sfikas, Hollinger, Craig, McCabe, Stoltzfus, Blount, Pinsky, Conway, Jimeno, Green, Middleton, and Hogan**

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.

President.

CHAPTER _____

1 AN ACT concerning

2

Hydraulic Clam Dredging

3 FOR the purpose of requiring the Department of Natural Resources to delineate
4 certain submerged aquatic vegetation beds for certain purposes; requiring the
5 Department to update certain delineations at certain times; prohibiting ~~the~~
6 ~~catching of soft shell clams by the use of a hydraulic clam dredge within a~~
7 ~~certain distance of~~ in certain delineated submerged aquatic vegetation beds;
8 providing for the application of this Act; making this Act an emergency measure;
9 and generally relating to the regulation of hydraulic clam dredging.

10 ~~BY repealing and reenacting, with amendments, BY adding to~~

11 Article - Natural Resources

12 ~~Section 4-1033 and 4-1038~~ Section 4-1006.1

13 Annotated Code of Maryland

14 (1997 Replacement Volume and 1997 Supplement)

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

3 **Article - Natural Resources**

4 ~~4-1033.~~

5 (a) ~~The Department shall adopt rules and regulations assuring that a tidal~~
6 ~~fish license authorizes a person to use only one hydraulic clam dredge. The~~
7 ~~Department also shall adopt rules and regulations requiring all licensees operating a~~
8 ~~hydraulic clam dredge owned by another person, or subject to a lien held by another~~
9 ~~person to have the license in possession when engaged in licensed activities and to~~
10 ~~affix the license identification number permanently to the vessel as required in §~~
11 ~~4-701(h) of this article.~~

12 (b) (1) ~~The Department shall adopt rules and regulations governing~~
13 ~~licensing of persons buying, selling, shipping, transporting, or otherwise dealing in~~
14 ~~soft shell clams, and the methods by which they may do so. However, a license may~~
15 ~~not be required to sell or dispose of clams in any retail market, restaurant, or other~~
16 ~~establishment where clams are sold or served for immediate use or consumption,~~
17 ~~when the clams are purchased from a person possessing a dealer's or shipper's~~
18 ~~license.~~

19 (2) ~~The Department shall require any person licensed to dredge for~~
20 ~~soft shell clams or licensed pursuant to the provisions of this subsection to maintain~~
21 ~~and submit records to the Department.~~

22 (c) ~~The Department may promulgate rules and regulations relating to any~~
23 ~~aspect of the soft shell clam fishery and shall adopt rules and regulations governing:~~

24 (1) ~~Measurement and structural details of a hydraulic clam dredge,~~

25 (2) ~~The number of hydraulic clam dredges which may be carried on a~~
26 ~~vessel;~~

27 (3) ~~The use of mufflers on motors or engines on hydraulic clam dredges~~
28 ~~or on board boats carrying hydraulic clam dredges;~~

29 (4) ~~The establishment of limits on the number of bushels which may be~~
30 ~~caught by a hydraulic clam dredge, or by a boat carrying a hydraulic clam dredge,~~

31 (5) ~~The minimum size of soft shell clams;~~

32 (6) ~~The times and dates for taking, landing, and unloading soft shell~~
33 ~~clams, and~~

34 (7) ~~Protection of soft shell clams from contamination, or from~~
35 ~~deterioration as a result of excessive heat.~~

1 ~~(D) FOR PURPOSES OF ESTABLISHING ADDITIONAL AREAS WHERE THE~~
2 ~~CATCHING OF SOFT-SHELL CLAMS BY HYDRAULIC CLAM DREDGE IS PROHIBITED~~
3 ~~UNDER § 4-1038 (D) OF THIS SUBTITLE, THE DEPARTMENT SHALL:~~

4 ~~(1) DELINEATE EXISTING SUBMERGED AQUATIC VEGETATION BEDS IN~~
5 ~~THE CHESAPEAKE BAY AND ITS TRIBUTARIES AS DOCUMENTED IN THE MOST~~
6 ~~RECENT AERIAL SURVEY; AND~~

7 ~~(2) PERIODICALLY UPDATE THE DELINEATION REQUIRED UNDER~~
8 ~~PARAGRAPH (1) OF THIS SUBSECTION.~~

9 4-1038.

10 (a) Except as provided in § 4-1039 of this subtitle, a person may not catch
11 soft-shell clams by hydraulic clam dredge in the following waters:

12 (1) Anne Arundel County.—

13 (i) Within 500 feet of any sea-nettle net;

14 (ii) Within 800 feet of any public bathing beach between Saunders
15 and Dutchman's Point, if the beach is marked as required by rule or regulation and
16 the public uses the beach for bathing;

17 (iii) In Marley Creek; Stoney Creek; Bodkin Creek; Magothy River
18 above a line drawn from Mountain Point to Persimmon Point; Little Magothy River;
19 Whitehall Bay between the shore and a line drawn from Hackett's Point to Possum
20 Point; Mill Creek; Severn River between the shore and a line drawn from Greenbury
21 Point to the east side of the entrance to Lake Ogleton; South River between the shore
22 and a line drawn between Turkey Point and east side of Duvall Creek, and extending
23 1,500 feet in front of Sandy Point State Park and Fort Smallwood State Park; West
24 River south and west of a line running from Cheston Point to Curtis Point; or

25 (iv) Anywhere in Anne Arundel County north of the Chesapeake
26 Bay Bridge within 800 feet of the shoreline, or south of the Chesapeake Bay Bridge
27 and north of Thomas Point within 300 feet of the shoreline from September 16 to
28 April 15 and within 800 feet of the shoreline from April 16 to September 15; south of
29 Thomas Point within 300 feet of the shoreline, except that between Turkey Point and
30 Ramsey Lake clamming is prohibited within 800 feet of the shoreline. This subsection
31 does not prohibit the catching of clams by hydraulic clam dredge in West River or
32 Rhode River.

33 (2) Dorchester County.—In the Dorchester County waters of the
34 Choptank River and its tributaries, west of a line running from Horn Point to Martin
35 Point and east of a line running from Sharp's Island light to Hill's Point from 30 days
36 before opening date of wild-waterfowl hunting season until the closing date. For
37 purposes of this item, the seaduck season is not part of the wild-waterfowl season.

38 (3) Queen Anne's County.—In the waters of Eastern Bay and its
39 tributaries; Shipping Creek; Cox's Creek; Crab Alley Creek; Wye River south of a line

1 from the southernmost tip of Ferry Point to the northernmost tip of Drum Point; Wye
 2 East River west of a line from the southernmost tip of Wye Island to northernmost tip
 3 of Bruff's Island; Kent Narrows south of a line drawn from the northernmost tip of
 4 Ferry Point to the northernmost tip of Long Point.

5 (4) Somerset County.—In the Wicomico River or Monie Bay east of a
 6 line from the easternmost entrance of Rock Creek to the southeast extremity of
 7 Mollie's Point.

8 (5) Talbot County.—

9 (i) In the Tred Avon River and in Town Creek in front of Oxford,
 10 between the shoreline and the center of the channel, except during October and
 11 November;

12 (ii) Within 1,200 feet of the Federal Research Laboratory at Oxford.

13 (b) A person may not catch by hydraulic or mechanical clam dredge soft shell
 14 clams from the waters of Charles or Wicomico Counties by the use of any hydraulic or
 15 mechanical clam dredge.

16 (C) A PERSON MAY NOT CATCH SOFT SHELL CLAMS BY HYDRAULIC CLAM
 17 DREDGE WITHIN 150 FEET OF SUBMERGED AQUATIC VEGETATION BEDS AS
 18 DELINEATED UNDER § 4 1033 (D) OF THIS SUBTITLE.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 20 October 1, 1998.
 21 4-1006.1.

22 (A) THE DEPARTMENT SHALL:

23 (1) DELINEATE EXISTING SUBMERGED AQUATIC VEGETATION BEDS IN
 24 THE WATERS OF THE STATE AS DOCUMENTED IN THE MOST RECENT AERIAL
 25 SURVEY; AND

26 (2) PERIODICALLY UPDATE THE DELINEATION REQUIRED UNDER ITEM
 27 (1) OF THIS SUBSECTION.

28 (B) A PERSON MAY NOT USE A HYDRAULIC CLAM DREDGE IN EXISTING
 29 SUBMERGED AQUATIC VEGETATION BEDS AS DELINEATED UNDER SUBSECTION (A)
 30 OF THIS SECTION.

31 (C) BY OCTOBER 1, 1998, THE DEPARTMENT SHALL ADOPT REGULATIONS
 32 THAT PROVIDE THE LATITUDE AND LONGITUDE COORDINATES FOR THE PLACEMENT
 33 OF BUOYS TO DELINEATE AREAS IN WHICH THE USE OF A HYDRAULIC CLAM DREDGE
 34 IS PROHIBITED.

35 (A) A PERSON MAY NOT USE A HYDRAULIC CLAM DREDGE IN ANY
 36 SUBMERGED AQUATIC VEGETATION BED.

1 (B) THE DEPARTMENT SHALL:

2 (1) DELINEATE EXISTING SUBMERGED AQUATIC VEGETATION BEDS IN
3 THE WATERS OF THE STATE NOT CURRENTLY PROTECTED UNDER PART IV OF THIS
4 SUBTITLE BY USING THE MOST RECENT AERIAL SURVEYS AS GUIDANCE; AND

5 (2) UPDATE AS NECESSARY THE DELINEATION REQUIRED UNDER
6 PARAGRAPH (1) OF THIS SUBSECTION.

7 ~~(D)~~ (C) THIS SECTION MAY NOT BE CONSTRUED TO AFFECT THE AUTHORITY
8 OF THE DEPARTMENT TO ADOPT ANY ADDITIONAL MEASURES THAT THE
9 DEPARTMENT DETERMINES ARE NECESSARY TO PROTECT SUBMERGED AQUATIC
10 VEGETATION BEDS IN THE WATERS OF THE STATE.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
12 measure, is necessary for the immediate preservation of the public health and safety,
13 has been passed by a ye and nay vote supported by three-fifths of all the members
14 elected to each of the two Houses of the General Assembly, and shall take effect from
15 the date it is enacted.