

SENATE BILL 398  
EMERGENCY BILL

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1998 Regular Session  
8r1798

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

Introduced and read first time: February 6, 1998

Assigned to: Economic and Environmental Affairs

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 17, 1998

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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)

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

17 **Article - Natural Resources**

18 ~~4-1033.~~

19 (a) ~~The Department shall adopt rules and regulations assuring that a tidal~~  
20 ~~fish license authorizes a person to use only one hydraulic clam dredge. The~~  
21 ~~Department also shall adopt rules and regulations requiring all licensees operating a~~  
22 ~~hydraulic clam dredge owned by another person, or subject to a lien held by another~~

1 person to have the license in possession when engaged in licensed activities and to  
2 affix the license identification number permanently to the vessel as required in §  
3 4-701(h) of this article.

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

11 (2) The Department shall require any person licensed to dredge for  
12 soft-shell clams or licensed pursuant to the provisions of this subsection to maintain  
13 and submit records to the Department.

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

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

17 (2) The number of hydraulic clam dredges which may be carried on a  
18 vessel;

19 (3) The use of mufflers on motors or engines on hydraulic clam dredges  
20 or on board boats carrying hydraulic clam dredges;

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

23 (5) The minimum size of soft-shell clams;

24 (6) The times and dates for taking, landing, and unloading soft-shell  
25 clams, and

26 (7) Protection of soft-shell clams from contamination, or from  
27 deterioration as a result of excessive heat.

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

31 (1) DELINEATE EXISTING SUBMERGED AQUATIC VEGETATION BEDS IN  
32 THE CHESAPEAKE BAY AND ITS TRIBUTARIES AS DOCUMENTED IN THE MOST  
33 RECENT AERIAL SURVEY; AND

34 (2) PERIODICALLY UPDATE THE DELINEATION REQUIRED UNDER  
35 PARAGRAPH (1) OF THIS SUBSECTION.

1 4-1038.

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

4 (1) Anne Arundel County.—

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

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

9 (iii) In Marley Creek; Stoney Creek; Bodkin Creek; Magothy River  
10 above a line drawn from Mountain Point to Persimmon Point; Little Magothy River;  
11 Whitehall Bay between the shore and a line drawn from Hackett's Point to Possum  
12 Point; Mill Creek; Severn River between the shore and a line drawn from Greenbury  
13 Point to the east side of the entrance to Lake Ogleton; South River between the shore  
14 and a line drawn between Turkey Point and east side of Duvall Creek, and extending  
15 1,500 feet in front of Sandy Point State Park and Fort Smallwood State Park; West  
16 River south and west of a line running from Cheston Point to Curtis Point; or

17 (iv) Anywhere in Anne Arundel County north of the Chesapeake  
18 Bay Bridge within 800 feet of the shoreline, or south of the Chesapeake Bay Bridge  
19 and north of Thomas Point within 300 feet of the shoreline from September 16 to  
20 April 15 and within 800 feet of the shoreline from April 16 to September 15; south of  
21 Thomas Point within 300 feet of the shoreline, except that between Turkey Point and  
22 Ramsey Lake clamming is prohibited within 800 feet of the shoreline. This subsection  
23 does not prohibit the catching of clams by hydraulic clam dredge in West River or  
24 Rhode River.

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

30 (3) Queen Anne's County.—In the waters of Eastern Bay and its  
31 tributaries; Shipping Creek; Cox's Creek; Crab Alley Creek; Wye River south of a line  
32 from the southernmost tip of Ferry Point to the northernmost tip of Drum Point; Wye  
33 East River west of a line from the southernmost tip of Wye Island to northernmost tip  
34 of Bruff's Island; Kent Narrows south of a line drawn from the northernmost tip of  
35 Ferry Point to the northernmost tip of Long Point.

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

39 (5) Talbot County.—

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

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

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

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

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
12 October 1, 1998.  
13 4-1006.1.

14 (A) THE DEPARTMENT SHALL:

15 (1) DELINEATE EXISTING SUBMERGED AQUATIC VEGETATION BEDS IN  
16 THE WATERS OF THE STATE AS DOCUMENTED IN THE MOST RECENT AERIAL  
17 SURVEY; AND

18 (2) PERIODICALLY UPDATE THE DELINEATION REQUIRED UNDER ITEM  
19 (1) OF THIS SUBSECTION.

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

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

27 (D) THIS SECTION MAY NOT BE CONSTRUED TO AFFECT THE AUTHORITY OF  
28 THE DEPARTMENT TO ADOPT ANY ADDITIONAL MEASURES THAT THE DEPARTMENT  
29 DETERMINES ARE NECESSARY TO PROTECT SUBMERGED AQUATIC VEGETATION  
30 BEDS IN THE WATERS OF THE STATE.

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

