

HOUSE BILL 536

Unofficial Copy
M1

2002 Regular Session
(2r1813)

ENROLLED BILL

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

Introduced by **Delegates McClenahan, Wood, and Weir**

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 _____

1 AN ACT concerning

2 **Natural Resources - Submerged Aquatic Vegetation ~~Bed~~ Prohibited Gear**

3 FOR the purpose of ~~requiring the Department of Natural Resources to update certain~~
4 ~~delineations of certain submerged aquatic vegetation protection zones at certain~~
5 ~~times; authorizing a certain area to be opened to certain activities during certain~~
6 ~~times and under certain circumstances; requiring the Department to make~~
7 ~~certain adjustments to certain delineations; requiring the Department to~~
8 ~~provide certain notice of certain delineations; prohibiting the use of certain gear~~
9 ~~in certain protection zones; providing certain exceptions; defining certain terms~~
10 ~~submerged aquatic vegetation beds and in certain areas; and generally relating~~
11 ~~to the protection and restoration of prohibition of certain gear in certain~~
12 ~~submerged aquatic vegetation beds and in certain areas. requiring the~~
13 ~~Department of Natural Resources to update certain delineations of certain~~
14 ~~submerged aquatic vegetation protection zones at certain times; authorizing a~~
15 ~~certain area to be opened to certain activities during certain times and under~~
16 ~~certain circumstances; requiring the Department to make certain adjustments to~~
17 ~~certain delineations; requiring the Department to utilize certain means to mark~~

1 certain protection zones; requiring the Department to provide certain notice of
 2 certain delineations; prohibiting the use of certain gear in certain protection
 3 zones; providing certain exceptions; defining certain terms; and generally
 4 relating to the protection and restoration of submerged aquatic vegetation.

5 BY repealing and reenacting, with amendments,
 6 Article - Natural Resources
 7 Section 4-1006.1
 8 Annotated Code of Maryland
 9 (2000 Replacement Volume and 2001 Supplement)

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

12 **Article - Natural Resources**

13 4-1006.1.

14 (a) ~~(1) [A person may not use a hydraulic clam dredge~~ THE FOLLOWING
 15 GEAR in any submerged aquatic vegetation bed;

16 ~~(I) A HYDRAULIC CLAM DREDGE;~~

17 ~~(II) A TRADITIONAL BOTTOM DREDGE; OR~~

18 ~~(III) A SHINNECOCK RAKE.~~

19 ~~(2) THE AREAS IN THE VICINITY OF SMITH ISLAND, SOUTH MARSH~~
 20 ~~ISLAND, AND BLOODSWORTH ISLAND THAT WERE CLOSED TO HYDRAULIC CLAM~~
 21 ~~DREDGING IN THE 1999 DELINEATION SHALL BE CLOSED TO THE GEAR SET FORTH~~
 22 ~~UNDER PARAGRAPH (1) OF THIS SUBSECTION AND MAY NOT BE REOPENED.~~

23 (b) The Department shall:

24 (1) Delineate existing submerged aquatic vegetation beds in the waters
 25 of the State not currently protected under Part IV of this subtitle by using the most
 26 recent aerial surveys as guidance; and

27 (2) Update as necessary the delineation required under paragraph (1) of
 28 this subsection.]

29 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
 30 INDICATED.

31 (2) "AERIAL SURVEY" MEANS THE ANNUAL AERIAL SURVEY COMPILED
 32 BY THE VIRGINIA INSTITUTE OF MARINE SCIENCES FOR THE ANNUAL BAY-WIDE
 33 SUBMERGED AQUATIC VEGETATION MAPPING PROGRAM.

1 (3) "SAV PROTECTION ZONE" MEANS AN AREA DELINEATED BY THE
2 DEPARTMENT FOR THE PROTECTION FROM UPROOTING AND THE RESTORATION OF
3 SUBMERGED AQUATIC VEGETATION.

4 (B) (1) IN 2004 AND EVERY 3 YEARS THEREAFTER, THE DEPARTMENT SHALL
5 UPDATE THE DELINEATIONS OF SAV PROTECTION ZONES THAT WERE COMPLETED
6 IN 2001.

7 (2) THE UPDATED DELINEATIONS SHALL INCLUDE AREAS WHERE
8 SUBMERGED AQUATIC VEGETATION HAS BEEN MAPPED BY AERIAL SURVEYS
9 DURING AT LEAST 1 OF THE PREVIOUS 3 YEARS.

10 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A
11 PREVIOUSLY DELINEATED SAV PROTECTION ZONE MAY BE OPENED TO THE USE OF
12 THE GEAR SET FORTH IN SUBSECTION (F) OF THIS SECTION DURING AN UPDATE IF:

13 (1) AERIAL SURVEYS HAVE NOT SHOWN ANY SUBMERGED
14 AQUATIC VEGETATION IN THE AREA DURING THE PAST 3 YEARS; OR

15 (II) AERIAL SURVEYS HAVE SHOWN THE DENSITY OF SUBMERGED
16 AQUATIC VEGETATION IN THAT AREA TO BE LESS THAN 10% DURING EACH OF THE
17 PAST 6 YEARS.

18 (2) THE AREAS IN THE VICINITY OF SMITH ISLAND, SOUTH MARSH
19 ISLAND, AND BLOODSWORTH ISLAND THAT WERE CLOSED TO HYDRAULIC CLAM
20 DREDGING IN THE 1999 DELINEATION SHALL BE CLOSED TO THE GEAR SET FORTH
21 IN SUBSECTION (F) OF THIS SECTION AND MAY NOT BE REOPENED.

22 (D) (1) TO THE EXTENT POSSIBLE, THE DEPARTMENT SHALL ADJUST SAV
23 PROTECTION ZONES SO THAT DELINEATIONS ARE GEOGRAPHICALLY MANAGEABLE,
24 UTILIZING STRAIGHT LINES AND EXISTING POINTS OF REFERENCE.

25 (2) (1) TO THE EXTENT POSSIBLE, AN ADJUSTMENT MADE IN
26 ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION SHALL RESULT IN NO NET
27 LOSS OR GAIN OF PROTECTED AREA.

28 (II) TO THE EXTENT POSSIBLE, TO PREVENT THE NET LOSS OR
29 GAIN OF PROTECTED AREA RESULTING FROM AN ADJUSTMENT MADE IN
30 ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION, THE ADJUSTMENT MAY:

31 1. EXCLUDE SMALL AREAS OF VEGETATED BOTTOM; OR

32 2. INCLUDE SMALL AREAS OF UNVEGETATED BOTTOM.

33 (E) THE DEPARTMENT:

34 (1) SHALL UTILIZE BUOYS OR OTHER VISIBLE LANDMARKS AS
35 APPROPRIATE TO MARK SAV PROTECTION ZONES;

1 (2) MAY MAKE REVISIONS TO THE DELINEATIONS OF SAV PROTECTION
2 ZONES AT ANY TIME IF DETERMINED TO BE NECESSARY; AND

3 (3) SHALL PUBLISH, BY PUBLIC NOTICE, DELINEATIONS OF SAV
4 PROTECTION ZONES AND REVISIONS TO SAV PROTECTION ZONES.

5 (F) A PERSON MAY NOT USE THE FOLLOWING GEAR IN A SAV PROTECTION
6 ZONE:

7 (1) A HYDRAULIC CLAM DREDGE;

8 (2) A TRADITIONAL BOTTOM DREDGE; AND

9 (3) A SHINNECOCK RAKE.

10 (4) ~~IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS~~
11 ~~INDICATED.~~

12 (2) ~~"AERIAL SURVEY" MEANS THE ANNUAL AERIAL SURVEY COMPILED~~
13 ~~BY THE VIRGINIA INSTITUTE OF MARINE SCIENCES FOR THE ANNUAL BAY WIDE~~
14 ~~SUBMERGED AQUATIC VEGETATION MAPPING PROGRAM.~~

15 (3) ~~"SAV PROTECTION ZONE" MEANS AN AREA DELINEATED BY THE~~
16 ~~DEPARTMENT FOR THE PROTECTION FROM UPROOTING AND THE RESTORATION OF~~
17 ~~SUBMERGED AQUATIC VEGETATION.~~

18 (B) (1) ~~IN 2004 AND EVERY 3 YEARS THEREAFTER, THE DEPARTMENT SHALL~~
19 ~~UPDATE THE DELINEATIONS OF SAV PROTECTION ZONES THAT WERE COMPLETED IN~~
20 ~~2001.~~

21 (2) ~~THE UPDATED DELINEATIONS SHALL INCLUDE AREAS WHERE~~
22 ~~SUBMERGED AQUATIC VEGETATION HAS BEEN MAPPED BY AERIAL SURVEYS~~
23 ~~DURING AT LEAST 1 OF THE PREVIOUS 3 YEARS.~~

24 (C) (1) ~~EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A~~
25 ~~PREVIOUSLY DELINEATED SAV PROTECTION ZONE MAY BE OPENED TO THE USE OF~~
26 ~~THE GEAR SET FORTH IN SUBSECTION (F) OF THIS SECTION DURING AN UPDATE IF:~~

27 (I) ~~AERIAL SURVEYS HAVE NOT SHOWN ANY SUBMERGED~~
28 ~~AQUATIC VEGETATION IN THE AREA DURING THE PAST 3 YEARS; OR~~

29 (II) ~~AERIAL SURVEYS HAVE SHOWN THE DENSITY OF SUBMERGED~~
30 ~~AQUATIC VEGETATION IN THAT AREA TO BE LESS THAN 10% DURING EACH OF THE~~
31 ~~PAST 6 YEARS.~~

32 (2) ~~THE AREAS IN THE VICINITY OF SMITH ISLAND, SOUTH MARSH~~
33 ~~ISLAND, AND BLOODSWORTH ISLAND THAT WERE CLOSED TO HYDRAULIC CLAM~~
34 ~~DREDGING IN THE 1999 DELINEATION SHALL BE CLOSED TO THE GEAR SET FORTH IN~~
35 ~~SUBSECTION (F) OF THIS SECTION AND MAY NOT BE REOPENED.~~

1 ~~(D)~~ (1) TO THE EXTENT POSSIBLE, THE DEPARTMENT SHALL ADJUST SAV
 2 PROTECTION ZONES SO THAT DELINEATIONS ARE GEOGRAPHICALLY MANAGEABLE,
 3 UTILIZING STRAIGHT LINES AND EXISTING POINTS OF REFERENCE.

4 (2) (1) TO THE EXTENT POSSIBLE, AN ADJUSTMENT MADE IN
 5 ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION SHALL RESULT IN NO NET
 6 LOSS OR GAIN OF PROTECTED AREA.

7 (H) TO THE EXTENT POSSIBLE, TO PREVENT THE NET LOSS OR GAIN
 8 OF PROTECTED AREA RESULTING FROM AN ADJUSTMENT MADE IN ACCORDANCE
 9 WITH PARAGRAPH (1) OF THIS SUBSECTION, THE ADJUSTMENT MAY:

10 1. EXCLUDE SMALL AREAS OF VEGETATED BOTTOM; OR

11 2. INCLUDE SMALL AREAS OF UNVEGETATED BOTTOM.

12 (E) THE DEPARTMENT:

13 (1) MAY UTILIZE BUOYS AS NECESSARY TO MARK SAV PROTECTION
 14 ZONES;

15 (2) MAY MAKE REVISIONS TO THE DELINEATIONS OF SAV PROTECTION
 16 ZONES AT ANY TIME IF DETERMINED TO BE NECESSARY; AND

17 (3) SHALL PUBLISH, BY PUBLIC NOTICE, DELINEATIONS OF SAV
 18 PROTECTION ZONES AND REVISIONS TO SAV PROTECTION ZONES.

19 (F) A PERSON MAY NOT USE THE FOLLOWING GEAR IN A SAV PROTECTION
 20 ZONE:

21 (1) A HYDRAULIC CLAM DREDGE;

22 (2) A TRADITIONAL BOTTOM DREDGE; AND

23 (3) A SHINNECOCK RAKE.

24 ~~((e))~~ (G) (G) This section may not be construed to affect the authority of the
 25 Department to adopt any additional measures that the Department determines are
 26 necessary to protect submerged aquatic vegetation beds in the waters of the State.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 28 July 1, 2002.

