
By: **Delegate Schisler**

Introduced and read first time: January 22, 2003

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Fishery Management Plans - Goals, Elements, and Scientific Peer Review**

3 FOR the purpose of altering the requirements and goals of certain fishery
4 conservation and management measures; altering the requirements for certain
5 fishery management plans; requiring the submission of certain fishery
6 management plans to a certain scientific peer review process; requiring the
7 Secretary of Natural Resources to designate certain experts with certain
8 qualifications; requiring the Department of Natural Resources to provide a
9 certain response and to make certain fishery management plan modifications;
10 requiring the Department to provide certain information in a certain annual
11 report; making certain technical corrections; providing for the prospective
12 application of this Act; providing for a delayed effective date for certain
13 provisions of this Act; and generally relating to the development of fishery
14 management measures and plans.

15 BY repealing and reenacting, with amendments,
16 Article - Natural Resources
17 Section 4-215
18 Annotated Code of Maryland
19 (2000 Replacement Volume and 2002 Supplement)

20 BY renumbering
21 Article - Natural Resources
22 Section 4-215(f) through (i), respectively
23 to be Section 4-215(g) through (j), respectively
24 Annotated Code of Maryland
25 (2000 Replacement Volume and 2002 Supplement)

26 BY adding to
27 Article - Natural Resources
28 Section 4-215(f)
29 Annotated Code of Maryland
30 (2000 Replacement Volume and 2002 Supplement)

1 BY repealing and reenacting, with amendments,
2 Article - Natural Resources
3 Section 4-215(g)
4 Annotated Code of Maryland
5 (2000 Replacement Volume and 2002 Supplement)
6 (As enacted by Sections 1 and 2 of this Act)

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

9 **Article - Natural Resources**

10 4-215.

11 (a) In this section the following terms have the meanings indicated:

12 (1) "Conservation and management measures" means 1 or more
13 techniques through which the objectives of a fishery management plan are achieved;

14 (2) "Fishery" or "fishery resource" means:

15 (i) One or more stocks of fish which can be treated as a unit for
16 purposes of conservation and management and which are identified on the basis of
17 geographic, scientific, technical, recreational, and economic characteristics; or

18 (ii) The group or industry harvesting those stocks;

19 (3) "Fishery management" means the system used to conserve and
20 allocate the fishery resource, including research and data collection, determination of
21 objectives and management measures, and establishment, enforcement, and periodic
22 evaluation of regulations; and

23 (4) "Fishery management plan" means a document or report that
24 contains a systematic description of a given fishery and the objectives and
25 conservation and management measures for the fishery.

26 (b) The Department shall prepare fishery management plans for the following
27 species:

28 (1) Striped bass or rockfish;

29 (2) White perch;

30 (3) Yellow perch;

31 (4) American shad;

32 (5) Hickory shad;

33 (6) Oysters;

- 1 (7) Blue crabs;
- 2 (8) Bluefish;
- 3 (9) Herring;
- 4 (10) Weakfish;
- 5 (11) Croaker;
- 6 (12) Spot;
- 7 (13) Summer flounder;
- 8 (14) American eel;
- 9 (15) Red drum;
- 10 (16) Black drum;
- 11 (17) Spotted sea trout;
- 12 (18) Horseshoe crabs;
- 13 (19) Menhaden;
- 14 (20) Tautog;
- 15 (21) Black sea bass;
- 16 (22) Scup;
- 17 (23) Hard shell clams; and
- 18 (24) Catfish.

19 (c) (1) Conservation and management measures adopted under a fishery
20 management plan, to the extent possible:

- 21 (i) Shall [prevent]:
 - 22 1. ACHIEVE SUSTAINABLE USE OF THE FISHERY;
 - 23 2. PREVENT overfishing while attempting to achieve the best
24 and most efficient utilization of the State's fishery resources;
 - 25 [(ii)] 3. [Shall be] REBUILD DEPRESSED STOCKS TO THE
26 HIGHEST SUSTAINABLE YIELDS THAT ARE CONSISTENT WITH THE BEST INTERESTS
27 OF THE SPECIES' HABITAT AND THE GENERAL ECOSYSTEM;

1 4. BE based on the best AVAILABLE SCIENTIFIC information
2 [available], AS SUPPLEMENTED BY ANY OTHER RELEVANT AND RELIABLE
3 INFORMATION;

4 [(iii) May not discriminate unfairly among groups of fishermen or
5 have economic allocation as its sole purpose;

6 (iv)] 5. [Shall take] PROMOTE THE PROTECTION AND
7 RESTORATION OF FISH HABITAT;

8 6. TAKE into account and allow for variations among, and
9 contingencies in, fisheries, fishery resources, and catches; and

10 [(v) 7. [Shall avoid] AVOID duplication of regulatory efforts
11 and unnecessary costs to the State and to any other person; AND

12 (II) MAY NOT DISCRIMINATE UNFAIRLY AMONG GROUPS OF
13 FISHERMEN OR HAVE ECONOMIC ALLOCATION AS ITS SOLE PURPOSE.

14 (2) If it becomes necessary to allocate or assign fishing privileges among
15 various groups of individuals under paragraph [(1)(iii)] (1)(II) of this subsection, or
16 under any fishery management plan, that allocation shall be:

17 (i) Fair and equitable to all individuals;

18 (ii) Reasonably calculated to promote conservation; and

19 (iii) Carried out in such a manner that no particular individual,
20 corporation, or other entity acquires an excessive share of such privileges.

21 (d) A fishery management plan may apply separately or jointly to the waters
22 of the Chesapeake Bay and its tidal tributaries, the coastal bays and their tributaries,
23 and the Maryland waters of the Atlantic Ocean and shall include:

24 (1) The best available estimates of sustainable harvest rates;

25 (2) Indicators that would trigger any tightening or loosening of harvest
26 restrictions;

27 (3) PERFORMANCE MEASURES FOR THE EVALUATION OF MANAGEMENT
28 ACTIONS TAKEN UNDER A FISHERY MANAGEMENT PLAN;

29 (4) A DESCRIPTION OF MONITORING ACTIVITIES NECESSARY TO
30 EVALUATE THE EFFECTIVENESS OF MANAGEMENT ACTIONS;

31 [(3)] (5) A description of the fishery, including:

32 (i) The history of the fishery, and its current condition relative to
33 historic populations;

- 1 (ii) The numbers of potential commercial and recreational
2 fishermen projected to participate in the fishery;
- 3 (iii) The type and quantity of fishing gear used commercially AND
4 RECREATIONALLY;
- 5 (iv) Where practicable, the cost likely to be incurred in the
6 management of the fishery; and
- 7 (v) The actual and potential revenues from the recreational and
8 commercial fishery; and
- 9 [(4)] (6) Other pertinent data that will assist the Secretary in
10 determining conservation and management measures reasonably necessary to ensure
11 that the fishery resources will be sustained.
- 12 (e) A fishery management plan may include:
- 13 (1) Proposed limitations on the catch of fish, based on area, species, size,
14 number, weight, sex, incidental catch, total biomass, or other factors, which are
15 necessary and appropriate for conservation and management of a fishery;
- 16 (2) Incorporation of relevant fishery conservation and management
17 measures proposed or adopted by interstate bodies of which Maryland is a member;
18 and
- 19 (3) Other proposed measures, requirements, or conditions and
20 restrictions which are necessary and appropriate for fishery management.
- 21 (f) The Department shall present the management plans under this section in
22 the form of an annual report, subject to § 2-1246 of the State Government Article, to:
- 23 (1) The Legislative Policy Committee;
- 24 (2) The [Economic] SENATE EDUCATION, HEALTH, and Environmental
25 Affairs Committee; and
- 26 (3) The HOUSE Environmental Matters Committee.
- 27 (g) (1) (i) The Secretary shall adopt the proposed management plans and
28 any proposed conservation and management measures by regulation.
- 29 (ii) The Secretary may adopt conservation and management
30 measures in separate proceedings and by separate regulations. Conservation and
31 management measures adopted separately may include changes to those proposed or
32 adopted in a fishery management plan and any additional measures necessary to
33 carry out the adopted plan.
- 34 (iii) The Secretary may not prohibit the use of pound net sites in the
35 coastal bays that are registered with the Department as of January 1, 2000.

1 (2) The regulations of the Department to implement a fisheries
2 management plan for the coastal bays may not become effective under this section
3 until the Department first holds public hearings in Worcester County.

4 (3) All notices of public hearings required for the adoption of regulations
5 under this section shall be printed in the Maryland Register and further publicized so
6 as to provide reasonable notice to the affected communities of fishermen and the
7 public.

8 (h) Notwithstanding any other provision of this title, once a fishery
9 management plan has been adopted by regulation, the State's fishery resources shall
10 be harvested in accordance with the conservation and management measures in the
11 fishery management plan and any regulations implementing or amending that plan.

12 (i) The provisions of this section do not apply to aquaculture activities in
13 nontidal ponds, lakes, or impoundments in the State.

14 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 4-215(f)
15 through (i), respectively, of Article - Natural Resources of the Annotated Code of
16 Maryland be renumbered to be Section(s) 4-215(g) through (j), respectively.

17 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
18 read as follows:

19 **Article - Natural Resources**

20 4-215.

21 (F) (1) BEFORE A FISHERY MANAGEMENT PLAN MAY BE ADOPTED, THE
22 DEPARTMENT SHALL SUBMIT THE PROPOSED PLAN TO AT LEAST THREE
23 INDEPENDENT EXPERTS FOR SCIENTIFIC PEER REVIEW.

24 (2) (I) THE SECRETARY SHALL DESIGNATE THE EXPERTS
25 PERFORMING THE SCIENTIFIC PEER REVIEW REQUIRED UNDER PARAGRAPH (1) OF
26 THIS SUBSECTION.

27 (II) A DESIGNATED EXPERT:

28 1. SHALL HAVE RELEVANT EXPERIENCE IN THE REVIEW OF
29 FISHERY MANAGEMENT PLANS; AND

30 2. MAY NOT:

31 A. BE EMPLOYED BY THE DEPARTMENT;

32 B. HAVE PARTICIPATED IN THE DEVELOPMENT OF THE PLAN
33 UNDER REVIEW; OR

34 C. BE AFFILIATED WITH ANY MARINE OR ESTUARINE
35 ADVOCACY ORGANIZATION.

1 (3) FOLLOWING THE COMPLETION OF THE SCIENTIFIC PEER REVIEW,
2 THE DEPARTMENT SHALL:

3 (I) RESPOND IN WRITING TO THE PEER REVIEW COMMENTS AND
4 RECOMMENDATIONS; AND

5 (II) AS APPROPRIATE, MODIFY THE FISHERY MANAGEMENT PLAN.

6 (g) (1) THE DEPARTMENT SHALL PREPARE AN ANNUAL REPORT
7 REGARDING THE FISHERY MANAGEMENT PLANS REQUIRED UNDER THIS SECTION.

8 (2) THE ANNUAL REPORT SHALL INCLUDE:

9 (I) ALL MANAGEMENT PLANS PREPARED DURING THAT YEAR;

10 (II) ALL COMMENTS AND RECOMMENDATIONS RESULTING FROM
11 THE SCIENTIFIC PEER REVIEW PROCESS; AND

12 (III) THE DEPARTMENT'S RESPONSE TO THE PEER REVIEW
13 COMMENTS AND RECOMMENDATIONS, INCLUDING WHAT, IF ANY, FISHERY
14 MANAGEMENT MODIFICATIONS WERE MADE BY THE DEPARTMENT FOLLOWING THE
15 SCIENTIFIC PEER REVIEW.

16 (3) The Department shall present the [management plans under this
17 section in the form of an] annual report, subject to § 2-1246 of the State Government
18 Article, to:

19 [(1)] (I) The Legislative Policy Committee;

20 [(2)] (II) The Senate Education, Health, and Environmental Affairs
21 Committee; and

22 [(3)] (III) The House Environmental Matters Committee.

23 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall be
24 construed to apply only prospectively and may not be applied or interpreted to have
25 any effect on or application to any fishery management plan that is adopted or
26 revised before October 1, 2003.

27 SECTION 5. AND BE IT FURTHER ENACTED, That Sections 2 and 3 of this
28 Act shall take effect January 1, 2006, and the provisions under Section 3 of this Act
29 shall apply to any fishery management plan that is adopted or revised on or after that
30 date.

31 SECTION 6. AND BE IT FURTHER ENACTED, That, subject to the provisions
32 of Section 5 of this Act, this Act shall take effect October 1, 2003.