

SENATE BILL 698

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M2

2003 Regular Session
3lr2373
CF 3lr2634

By: **Senator Stoltzfus**
Introduced and read first time: February 18, 2003
Assigned to: Rules
Re-referred to: Education, Health, and Environmental Affairs, February 26, 2003

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 23, 2003

CHAPTER _____

1 AN ACT concerning

2 **Natural Resources - Oysters - Power Dredging**

3 FOR the purpose of requiring the Department of Natural Resources to adopt
4 regulations to establish zones ~~by regulation~~ in which a person may catch oysters
5 with a power dredge during a certain time period; requiring the Department to
6 establish certain harvest sanctuaries comprising a certain percentage of a
7 certain area; authorizing the Department by regulation to open or close any ~~zone~~
8 area within certain zones for the catching of oysters by power dredging or the
9 conservation of oysters; ~~prohibiting a certain zone from being established~~ the
10 application of this Act in certain areas; authorizing the Department to set
11 certain minimum and maximum size limits and set a season, day, and time
12 when oysters may be harvested by power dredging; requiring the Department to
13 follow certain criteria when determining whether to open or close an oyster
14 power dredge zone; requiring the Department to design and implement a certain
15 program; requiring the Department to publish certain notice before taking
16 certain actions; requiring that certain established zones include certain
17 geographic areas; authorizing the Department to require a person who catches
18 oysters with a power dredge to complete and file certain reports; providing for
19 the termination of this Act; and generally relating to oysters and power
20 dredging.

21 BY adding to
22 Article - Natural Resources
23 Section 4-1014.4
24 Annotated Code of Maryland
25 (2000 Replacement Volume and 2002 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 4-1014.4.

5 (A) ~~THE DEPARTMENT MAY NOT ESTABLISH ZONES FOR THE POWER~~
6 ~~DREDGING OF OYSTERS UNDER THIS SECTION~~ PROVISIONS OF THIS SECTION DO NOT
7 APPLY IN:

8 (1) AN OYSTER SANCTUARY ~~THAT WAS ESTABLISHED BY~~ IN
9 REGULATIONS ADOPTED BY THE DEPARTMENT; OR

10 (2) A SUBMERGED AQUATIC VEGETATION PROTECTION ZONE
11 DELINEATED IN ACCORDANCE WITH § 4-1006.1 OF THIS SUBTITLE; OR

12 (3) ANY WATERS CONTIGUOUS TO THE SHORE THAT ARE MORE
13 SHALLOW THAN 6 FEET AT MEAN LOW TIDE WHERE:

14 (I) A SUBMERGED AQUATIC VEGETATION BED IS LOCATED; OR

15 (II) THERE IS HISTORIC EVIDENCE OF THE PRESENCE OF
16 SUBMERGED AQUATIC VEGETATION BEDS.

17 (B) THE DEPARTMENT SHALL ADOPT REGULATIONS TO ESTABLISH ZONES BY
18 REGULATION IN WHICH A PERSON MAY CATCH OYSTERS WITH A POWER DREDGE
19 DURING THE POWER DREDGING SEASON FROM NOVEMBER 1 TO MARCH 30.

20 (C) (1) THE DEPARTMENT SHALL ESTABLISH HARVEST SANCTUARIES IN
21 EACH POWER DREDGE ZONE.

22 (2) A HARVEST SANCTUARY SHALL BE LOCATED IN AN AREA:

23 (I) WITH BOTTOM CONDITIONS SUITABLE FOR OYSTER GROWTH;
24 OR

25 (II) THAT CAN BE READILY REHABILITATED TO BE SUITABLE FOR
26 OYSTER GROWTH.

27 (3) THE ESTABLISHMENT OF HARVEST SANCTUARIES UNDER THIS
28 SUBSECTION SHALL ENSURE THAT THE TOTAL SANCTUARY AREA IN EACH ZONE IS
29 AT LEAST 10% OF THE AREA THAT HISTORICALLY SUPPORTED OYSTER GROWTH IN
30 THAT ZONE.

31 (D) NOTWITHSTANDING ANY OTHER LAW AND SUBJECT TO SUBSECTION (A)
32 OF THIS SECTION, THE DEPARTMENT MAY, BY REGULATION:

33 (1) OPEN OR CLOSE ANY AREA WITHIN A POWER DREDGE ZONE FOR THE
34 CATCHING OF OYSTERS BY POWER DREDGING;

1 (2) OPEN OR CLOSE ANY AREA WITHIN A POWER DREDGE ZONE FOR THE
2 CONSERVATION OF OYSTERS;

3 (3) SET THE OYSTER DREDGE BAR MINIMUM AND MAXIMUM SIZE
4 LIMITS; OR

5 (4) SET THE SEASON, DAYS, AND TIMES WHEN OYSTERS MAY BE
6 HARVESTED BY POWER DREDGING.

7 ~~(D)~~ (E) THE DEPARTMENT SHALL USE THE FOLLOWING CRITERIA IN
8 DETERMINING WHETHER TO OPEN OR CLOSE AN AREA WITHIN AN OYSTER POWER
9 DREDGE ZONE:

10 (1) GROWTH RATES OF OYSTERS;

11 (2) DISEASE PREVALENCE AND INTENSITY;

12 (3) SPAT SET HISTORY;

13 ~~(3)~~ (4) TARGET OR THRESHOLD FISHING OR NATURAL MORTALITY RATES;

14 ~~(4)~~ (5) BIOMASS THRESHOLDS OR TARGETS;

15 ~~(5)~~ (6) AQUATIC HABITAT OBJECTIVES CONTAINED IN A FISHERY
16 MANAGEMENT PLAN DEVELOPED UNDER § 4-215 OF THIS TITLE;

17 ~~(6)~~ (7) RECOMMENDATIONS BY:

18 (I) THE TIDAL FISH ADVISORY COMMISSION;

19 (II) THE SPORT FISH ADVISORY COMMISSION; AND

20 (III) COUNTY OYSTER COMMITTEES; AND

21 ~~(7)~~ (8) PUBLIC COMMENT.

22 (F) THE DEPARTMENT SHALL DESIGN AND IMPLEMENT A PROGRAM FOR
23 SCIENTIFICALLY MONITORING AND ASSESSING THE EFFECT OF POWER DREDGING
24 ON THE CONDITION OF THE BOTTOM AND SUBSEQUENT SPAT SET IN THE POWER
25 DREDGE AREAS AND ZONES.

26 ~~(E)~~ (G) WHEN OPENING OR CLOSING AN AREA OR A ZONE UNDER
27 SUBSECTION ~~(C)~~ (D) OF THIS SECTION, THE DEPARTMENT SHALL, AT LEAST 48 HOURS
28 IN ADVANCE OF THE TIME OF THE ACTION, PUBLISH THE ACTION AND RELEVANT
29 DATES AND TIMES IN:

30 (1) A DAILY NEWSPAPER OF GENERAL CIRCULATION; AND

31 (2) A NEWSPAPER CIRCULATED IN THE COUNTY WHERE THE WATERS
32 ARE DIRECTLY AFFECTED BY THE PROPOSED ACTION.

1 ~~(F)~~ (H) POWER DREDGE ZONES ESTABLISHED UNDER THIS SECTION SHALL
2 INCLUDE THE FOLLOWING AREAS:

3 (1) IN THE HONGA RIVER AREA CONSISTING OF THE WATERS OF THE
4 STATE THAT LIE WITHIN THE HONGA RIVER OF DORCHESTER COUNTY NORTH OF A
5 LINE RUNNING FROM CREEK POINT TO JENNY ISLAND;

6 (2) IN THE FISHING BAY AREA CONSISTING OF THE WATERS OF THE
7 STATE THAT LIE WITHIN DORCHESTER COUNTY AND WICOMICO COUNTY NORTH OF
8 THE DORCHESTER-SOMERSET COUNTY LINE AND THE WICOMICO-SOMERSET
9 COUNTY LINE, SOUTHEAST OF A LINE FROM TIGS POINT RUNNING ALONG THE
10 EXISTING DREDGE LINE TO A POINT AT OR NEAR BISHOPS HEAD POINT, SOUTH OF A
11 LINE RUNNING NORTHWESTERLY FROM FISHING POINT TO THOROFARE POINT,
12 EXCLUDING TEDIOUS CREEK, GOOSE CREEK, AND THE NANTICOKE RIVER NORTH OF
13 SANDY POINT ON CLAY ISLAND;

14 (3) IN THE ST. MARY'S RIVER CONSISTING OF THE WATERS OF THE
15 STATE THAT LIE WITHIN THE ST. MARY'S RIVER IN ST. MARY'S COUNTY NORTH OF
16 THE POTOMAC RIVER FISHERIES COMMISSION JURISDICTIONAL LINE, EXCLUDING
17 ST. GEORGE CREEK WEST OF BALL POINT, CARTHAGENA CREEK, AND ST. INIGOES
18 CREEK;

19 (4) IN THE POCOMOKE SOUND AREA CONSISTING OF THE WATERS OF
20 THE STATE THAT LIE WITHIN SOMERSET COUNTY NORTH OF THE
21 MARYLAND-VIRGINIA LINE AND EAST OF A LINE RUNNING FROM WARE POINT
22 SOUTHEASTERLY TO MARYLAND-VIRGINIA LINE CORNER "A" IN POCOMOKE SOUND;
23 AND

24 (5) IN THE TALBOT COUNTY AREA CONSISTING OF THE WATERS OF THE
25 STATE THAT LIE WITHIN THE CHOPTANK RIVER AND ITS TRIBUTARIES NORTH OF A
26 LINE RUNNING WESTERLY FROM CHLORA POINT ALONG THE EXISTING COUNTY
27 DREDGE LINE TO A POINT AT OR NEAR THE SHORE OF UPPER BAR NECK POINT,
28 EXCLUDING THE KNAPPS NARROWS, TRED AVON RIVER, IRISH CREEK, AND NORTH OF
29 BALD EAGLE POINT AND NORTH OF DEEP NECK POINT.

30 ~~(G)~~ (I) THE DEPARTMENT MAY REQUIRE A PERSON WHO CATCHES OYSTERS
31 WITH A POWER DREDGE TO COMPLETE AND FILE REPORTS ON FORMS PROVIDED BY
32 THE DEPARTMENT.

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 July 1, 2003. It shall remain effective for a period of 5 years and, at the end of June
35 30, 2008, with no further action required by the General Assembly, this Act shall be
36 abrogated and of no further force and effect.

