

HOUSE BILL 760

M2

(71r0542)

ENROLLED BILL

— *Environmental Matters / Education, Health, and Environmental Affairs* —

Introduced by **Delegates V. Clagett, Ali, Barnes, Bartlett, Barve, Beidle, Bobo, Boteler, Bronrott, Dumais, Frush, Gilchrist, Hammen, Haynes, Healey, Hecht, Holmes, Hucker, Ivey, Kach, N. King, Lafferty, Lawton, Mathias, McHale, McIntosh, Mizeur, Montgomery, Morhaim, Rosenberg, Shewell, Stein, Stukes, ~~and Waldstreicher~~ Waldstreicher, Glassman, Glenn, Kipke, Niemann, Stull, 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 – Diamondback Terrapin – Take and Possession**

3 FOR the purpose of repealing the requirement that the Department of Natural
4 Resources prepare a fishery management plan for the diamondback terrapin;
5 prohibiting the take or possession of diamondback terrapin for commercial
6 purposes; prohibiting the possession of a certain number of diamondback

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber / conference committee amendments.



terrapiin for noncommercial purposes; providing for certain exceptions to the prohibition on taking or possessing diamondback terrapiin; requiring the Department, in consultation with the Maryland Aquaculture Coordinating Council, to adopt certain regulations before issuing certain permits; repealing the requirement that the Department adopt certain regulations for the catching of terrapiin; requiring the Department to adopt certain regulations for the conservation of diamondback terrapiin; repealing certain exemptions from certain excise and use taxes relating to the catching of terrapiin for commercial purposes; and generally relating to the catch, take, or possession of diamondback terrapiin.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 4–215(b), 4–902, and 4–903
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,
Article – Natural Resources
Section 8–716(c)
Annotated Code of Maryland
(2000 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 8–716(e) and (g) and 8–716.1(k)
Annotated Code of Maryland
(2000 Replacement Volume and 2006 Supplement)

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

Article – Natural Resources

4–215.

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

(1) Striped bass or rockfish;

(2) White perch;

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

(24) Catfish[; and

(25) Diamondback terrapin].

4-902.

[A person may not catch terrapin for commercial purposes unless he first obtains a license from the Department.]

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION:

(1) A PERSON MAY NOT TAKE OR POSSESS DIAMONDBACK TERRAPIN FOR COMMERCIAL PURPOSES; AND

(2) A PERSON MAY NOT POSSESS MORE THAN THREE DIAMONDBACK TERRAPIN FOR NONCOMMERCIAL PURPOSES.

(B) THIS SECTION DOES NOT PROHIBIT:

(1) THE INCIDENTAL CATCH OF DIAMONDBACK TERRAPIN, PROVIDED THE DIAMONDBACK TERRAPIN ARE RETURNED IMMEDIATELY TO THE WATER; ~~OR~~

(2) THE COLLECTION OR POSSESSION OF DIAMONDBACK TERRAPIN IN ACCORDANCE WITH THE TERMS OF A SCIENTIFIC OR EDUCATIONAL CERTIFICATE OR PERMIT ISSUED IN ACCORDANCE WITH § 4-212 OF THIS TITLE OR § 10-909 OF THIS ARTICLE; OR

(3) THE POSSESSION AND BREEDING OF DIAMONDBACK TERRAPIN BY A PERSON WHO HOLDS A VALID PERMIT ISSUED BY THE DEPARTMENT FOR:

(I) AQUACULTURE ACTIVITIES UNDER SUBTITLE 11A OF THIS TITLE; OR

(II) CAPTIVE WILDLIFE BREEDING UNDER TITLE 10, SUBTITLE 9 OF THIS ARTICLE.

(C) (1) THE DEPARTMENT, IN CONSULTATION WITH THE MARYLAND AQUACULTURE COORDINATING COUNCIL, SHALL ADOPT REGULATIONS FOR

DIAMONDBACK TERRAPIN AQUACULTURE AND CAPTIVE BREEDING BEFORE
ISSUING ANY ADDITIONAL PERMITS RELATING TO DIAMONDBACK TERRAPIN
UNDER SUBTITLE 11A OF THIS TITLE OR TITLE 10, SUBTITLE 9 OF THIS
ARTICLE.

(2) THE REGULATIONS ADOPTED IN ACCORDANCE WITH
PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:

(I) VERIFIABLE SAFEGUARDS TO IDENTIFY LEGALLY
OBTAINED DIAMONDBACK TERRAPIN;

(II) STANDARDS FOR DIAMONDBACK TERRAPIN
HUSBANDRY; AND

(III) STANDARDS FOR SHIPPING DIAMONDBACK TERRAPIN.

4–903.

[(a)] The Department shall adopt regulations governing[:

(1) The catching of terrapin; and

(2) Terrapin resources] **THE CONSERVATION OF DIAMONDBACK
TERRAPIN.**

[(b) The regulations adopted under this section shall be consistent with the
recommendations of the Maryland Diamondback Terrapin Task Force issued in 2001.]

8–716.

(c) (1) Except as provided in § 8–715(d) of this subtitle and in subsections
(e) and (f) of this section, and in addition to the fees prescribed in subsection (b) of this
section, an excise tax is levied at the rate of 5% of the fair market value of the vessel
on:

(i) The issuance of every original certificate of title required for
a vessel under this subtitle;

(ii) The issuance of every subsequent certificate of title for the
sale, resale, or transfer of the vessel;

1 (iii) The sale within the State of every other vessel; and

2 (iv) The possession within the State of a vessel used or to be
3 used principally in the State.

4 (2) Notwithstanding the provisions of this subsection, no tax is paid on
5 issuance of any certificate of title if the owner of the vessel for which a certificate of
6 title is sought was the owner of the vessel prior to June 1, 1965, or paid Maryland
7 sales and use tax on the vessel as required by law at the time of acquisition. The
8 Department may require the applicant for titling to submit satisfactory proof that the
9 applicant owned the vessel prior to June 1, 1965.

10 (e) A person is not required to pay the tax provided for in subsection (c) of
11 this section resulting from:

12 (1) A transfer between members of the immediate family as
13 determined by Department regulations;

14 (2) A transfer between members of the immediate family as
15 determined by Department regulations of a documented vessel for which the
16 transferor applied for and was issued a valid use sticker under § 8-712.1 of this
17 subtitle;

18 (3) A transfer to a licensed dealer of a vessel for resale, rental, or
19 leasing purposes;

20 (4) The holding of a vessel that is titled or numbered in another state
21 or is federally documented, provided:

22 (i) The vessel is held for resale or listed for resale by a licensed
23 dealer; and

24 (ii) The vessel owner signs an affidavit that there will be no use
25 of the vessel on the waters of the State other than for a sea trial;

26 (5) Purchase of a vessel by the State or any political subdivision;

27 (6) Purchase of a vessel by an eleemosynary organization which the
28 Secretary has approved;

29 (7) The purchase within the State of a vessel if the owner paid or
30 incurred a liability for the Maryland sales and use tax on the vessel prior to July 1,
31 1986;

1 (8) The possession within the State of a vessel which was purchased
2 outside the State if the owner paid or incurred a liability for the Maryland use tax on
3 the vessel prior to July 1, 1986;

4 (9) The possession of a vessel in the State that is not used or to be
5 used principally on the waters of the State and for which the issuance of a title is not
6 sought or required under this subtitle, except that:

7 (i) A vessel is not deemed used on the waters of the State if the
8 vessel is used for 90 days or less of a calendar year; and

9 (ii) If a vessel is used for more days than 90 days in a calendar
10 year, the period of 90 days shall be counted in the determination of principal use
11 under this subtitle;

12 (10) The possession within the State of a vessel if the current owner,
13 before July 1, 1986:

14 (i) 1. Was licensed by the Department to catch, for
15 commercial purposes, finfish, eels, crabs, conch, [terrapin,] soft-shell clams,
16 hard-shell clams, oysters, or any other fish; and

17 2. Used the vessel for any of the commercial fishing
18 purposes described in item 1 of this item;

19 (ii) 1. Was licensed as a commercial fishing guide under the
20 provisions of § 4-210 of this article; and

21 2. Used the vessel as a charter boat with a license as
22 provided in § 4-745(d)(2) of this article;

23 (11) The possession within the State of a vessel that:

24 (i) Is owned by a nonprofit organization that:

25 1. Is qualified as tax exempt under § 501(c)(4) of the
26 Internal Revenue Code; and

27 2. Is engaged in providing a program to render its best
28 efforts to contain, clean up, and otherwise mitigate spills of oil or other substances
29 occurring in United States coastal and tidal waters; and

(ii) Is used for the purposes of the organization;

(12) The possession within the State of a vessel for a period of not more than one year if the current owner is a member of the armed services and is serving on active duty in this State; or

(13) The sale of a vessel within the State if:

(i) The vessel is purchased from a licensed dealer;

(ii) The issuance of a title is not sought or required;

(iii) The vessel is not used or to be used principally on the waters of this State;

(iv) The vessel is duly registered in another jurisdiction within 30 days of the date of purchase; and

(v) The dealer and the purchaser execute an agreement certifying the state of principal use for the vessel which is filed with the Department within 30 days of the date of purchase.

(g) (1) A person may claim a credit against any tax imposed under subsection (c) of this section on a vessel for sales tax the person has paid to the State, to another state, or to the District of Columbia on materials and equipment that are incorporated into the vessel, if:

(i) 1. The person is licensed by the Department to catch, for commercial purposes, finfish, eels, crabs, conch, [terrapin,] soft-shell clams, hard-shell clams, oysters, or any other fish; and

2. The vessel is to be used for any of the commercial fishing purposes described in item 1 of this item; or

(ii) 1. Was licensed as a commercial fishing guide under the provisions of § 4-210 of this article; and

2. Used the vessel as a charter boat with a license as provided in § 4-745(d)(2) of this article.

1 (2) The Department may require a person claiming the credit allowed
2 under this subsection to submit satisfactory proof of payment of the sales tax and that
3 the materials or equipment have been incorporated into the vessel.

4 8-716.1.

5 (k) Notwithstanding any other provision of law, the Department may not
6 collect or enforce any liability for the Maryland use tax that was incurred before July
7 1, 1986 on a vessel owned by a person who at the time the liability was incurred:

8 (1) (i) Was licensed by the Department to catch, for commercial
9 purposes, finfish, eels, crabs, conch, [terrapin,] soft-shell clams, hard-shell clams,
10 oysters, or any other fish; and

11 (ii) Used the vessel for any of the commercial fishing purposes
12 described in item (1)(i) of this paragraph; or

13 (2) (i) Was licensed as a commercial fishing guide under the
14 provisions of § 4-210 of this article; and

15 (ii) Used the vessel as a charter boat with a license as provided
16 in § 4-745(d)(2) of this article.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 ~~October~~ July 1, 2007.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.