

HOUSE BILL 760

M2

71r0542

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**

Introduced and read first time: February 9, 2007

Assigned to: Environmental Matters

A BILL ENTITLED

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
7 terrapin for noncommercial purposes; repealing the requirement that the
8 Department adopt certain regulations for the catching of terrapin; requiring the
9 Department to adopt certain regulations for the conservation of diamondback
10 terrapin; repealing certain exemptions from certain excise and use taxes
11 relating to the catching of terrapin for commercial purposes; and generally
12 relating to the catch, take, or possession of diamondback terrapin.

13 BY repealing and reenacting, with amendments,
14 Article – Natural Resources
15 Section 4–215(b), 4–902, and 4–903
16 Annotated Code of Maryland
17 (2005 Replacement Volume and 2006 Supplement)

18 BY repealing and reenacting, without amendments,
19 Article – Natural Resources
20 Section 8–716(c)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2000 Replacement Volume and 2006 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article – Natural Resources
5 Section 8–716(e) and (g) and 8–716.1(k)
6 Annotated Code of Maryland
7 (2000 Replacement Volume and 2006 Supplement)

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

10 **Article – Natural Resources**

11 4–215.

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

14 (1) Striped bass or rockfish;

15 (2) White perch;

16 (3) Yellow perch;

17 (4) American shad;

18 (5) Hickory shad;

19 (6) Oysters;

20 (7) Blue crabs;

21 (8) Bluefish;

22 (9) Herring;

23 (10) Weakfish;

24 (11) Croaker;

25 (12) Spot;

- (13) Summer flounder;
- (14) American eel;
- (15) Red drum;
- (16) Black drum;
- (17) Spotted sea trout;
- (18) Horseshoe crabs;
- (19) Menhaden;
- (20) Tautog;
- (21) Black sea bass;
- (22) Scup;
- (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 **(1) THE INCIDENTAL CATCH OF DIAMONDBACK TERRAPIN,**
2 **PROVIDED THE DIAMONDBACK TERRAPIN ARE RETURNED IMMEDIATELY TO**
3 **THE WATER; OR**

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

8 4-903.

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

10 (1) The catching of terrapin; and

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

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

15 8-716.

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

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

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

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

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

27 (2) Notwithstanding the provisions of this subsection, no tax is paid on
28 issuance of any certificate of title if the owner of the vessel for which a certificate of

1 title is sought was the owner of the vessel prior to June 1, 1965, or paid Maryland
2 sales and use tax on the vessel as required by law at the time of acquisition. The
3 Department may require the applicant for titling to submit satisfactory proof that the
4 applicant owned the vessel prior to June 1, 1965.

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

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

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

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

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

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

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

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

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

24 (7) The purchase within the State of a vessel if the owner paid or
25 incurred a liability for the Maryland sales and use tax on the vessel prior to July 1,
26 1986;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (iv) The vessel is duly registered in another jurisdiction within
7 30 days of the date of purchase; and

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

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

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

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

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

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

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

27 8-716.1.

1 (k) Notwithstanding any other provision of law, the Department may not
2 collect or enforce any liability for the Maryland use tax that was incurred before July
3 1, 1986 on a vessel owned by a person who at the time the liability was incurred:

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

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

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

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

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2007.