

# HOUSE BILL 760

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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**

Introduced and read first time: February 9, 2007

Assigned to: Environmental Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 13, 2007

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## 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  
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

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### 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.



1       Annotated Code of Maryland  
2       (2005 Replacement Volume and 2006 Supplement)

3   BY repealing and reenacting, without amendments,  
4       Article – Natural Resources  
5       Section 8–716(c)  
6       Annotated Code of Maryland  
7       (2000 Replacement Volume and 2006 Supplement)

8   BY repealing and reenacting, with amendments,  
9       Article – Natural Resources  
10      Section 8–716(e) and (g) and 8–716.1(k)  
11      Annotated Code of Maryland  
12      (2000 Replacement Volume and 2006 Supplement)

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

15                               **Article – Natural Resources**

16   4–215.

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

- 19           (1)   Striped bass or rockfish;  
20           (2)   White perch;  
21           (3)   Yellow perch;  
22           (4)   American shad;  
23           (5)   Hickory shad;  
24           (6)   Oysters;  
25           (7)   Blue crabs;  
26           (8)   Bluefish;  
27           (9)   Herring;

- (10) Weakfish;
- (11) Croaker;
- (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**

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

3                   **(B) THIS SECTION DOES NOT PROHIBIT:**

4                   **(1) THE INCIDENTAL CATCH OF DIAMONDBACK TERRAPIN,**  
5 **PROVIDED THE DIAMONDBACK TERRAPIN ARE RETURNED IMMEDIATELY TO**  
6 **THE WATER; OR**

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

11 4-903.

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

13                   (1) The catching of terrapin; and

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

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

18 8-716.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9                           (iv) The vessel is duly registered in another jurisdiction within  
10 30 days of the date of purchase; and

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

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

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

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

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

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

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

1 8-716.1.

2 (k) Notwithstanding any other provision of law, the Department may not  
3 collect or enforce any liability for the Maryland use tax that was incurred before July  
4 1, 1986 on a vessel owned by a person who at the time the liability was incurred:

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

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

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

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

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

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.