

SENATE BILL 379

M2

71r1496

By: **Senators Dyson, Astle, and Haines**

Introduced and read first time: February 2, 2007

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Atlantic Coastal Bays – Dredging for Oysters and Clams – Prohibition**

3 FOR the purpose of prohibiting the use of dredging to catch or attempt to catch oysters
4 and clams in the Atlantic Coastal Bays area; prohibiting the use of a hydraulic
5 clam dredge, power dredge or other mechanical means of clamming and
6 oystering in the Atlantic Coastal Bays; providing for the application of certain
7 provisions of this Act; and generally relating to oyster and clam dredging.

8 BY renumbering

9 Article – Natural Resources

10 Section 4–1021.1

11 to be Section 4–1021.2

12 Annotated Code of Maryland

13 (2005 Replacement Volume and 2006 Supplement)

14 BY repealing and reenacting, with amendments,

15 Article – Natural Resources

16 Section 4–215(h), 4–1012(a), 4–1037, 4–1038, and 4–1039

17 Annotated Code of Maryland

18 (2005 Replacement Volume and 2006 Supplement)

19 BY adding to

20 Article – Natural Resources

21 Section 4–1002 and 4–1021.1

22 Annotated Code of Maryland

23 (2005 Replacement Volume and 2006 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That Section(s) 4-1021.1 of Article – Natural Resources of the
3 Annotated Code of Maryland be renumbered to be Section(s) 4-1021.2.

4 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
5 read as follows:

6 **Article – Natural Resources**

7 4-215.

8 (h) Notwithstanding any other provision of this title, **EXCEPT § 4-1002 OF**
9 **THIS TITLE**, once a fishery management plan has been adopted by regulation, the
10 State's fishery resources shall be harvested in accordance with the conservation and
11 management measures in the fishery management plan and any regulations
12 implementing or amending that plan.

13 **4-1002.**

14 **NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, A PERSON**
15 **MAY NOT CATCH OR ATTEMPT TO CATCH CLAMS OR OYSTERS BY POWER**
16 **DREDGE, HYDRAULIC CLAM DREDGE, OR OTHER MECHANICAL MEANS IN THE**
17 **ATLANTIC COASTAL BAYS, AS DEFINED IN § 8-1802 OF THIS ARTICLE.**

18 4-1012.

19 (a) A person may not catch oysters by dredge in the **ATLANTIC COASTAL**
20 **BAYS, AS DEFINED IN § 8-1802 OF THIS ARTICLE, OR IN THE** following areas of the
21 Chesapeake Bay: the area bounded by a line drawn from Lowes Point towards the
22 Bloody Point Lighthouse for a distance of 1.8 miles, and then direct to North Point on
23 Poplar Island; then southerly around the westerly shore of Poplar Island to the
24 southwesterly most point; then running in a straight line to the Department marker
25 on the northern shore of Pawpaw Cove which area shall be reserved for catching of
26 oysters with shaft tongs only; all the area lying within one-fourth mile of the western
27 shore of Poplar Island; all the area within one-half mile of Plum Point; all the area
28 within one and one-half miles of Sandy Point, Hackett Point, Tolly Point, and Thomas
29 Point within Anne Arundel County waters; and the following oyster bars: 2-9, 2-10,
30 5-1, 5-2, 5-3A, 5-3B, 8-2, 8-6, and 8-9, as defined by the charts of the Oyster Survey
31 of 1906 to 1912, and its amendments.

32 **4-1021.1.**

1 **A PERSON MAY NOT CATCH HARD-SHELL CLAMS BY HYDRAULIC CLAM**
2 **DREDGE OR OTHER MECHANICAL MEANS IN THE ATLANTIC COASTAL BAYS, AS**
3 **DEFINED IN § 8-1802 OF THIS ARTICLE.**

4 4-1037.

5 A person may not catch or attempt to catch soft-shell clams with a hydraulic
6 clam dredge or any other gear except hand-held tools, such as shovels and hoes, in the
7 following areas:

8 (1) Within 150 feet of a natural oyster bar or area leased under the
9 provisions of Subtitle 11 and marked as required by that subtitle;

10 (2) Within 1,000 feet of any occupied duck blind where decoys are set
11 out during waterfowl hunting season;

12 (3) Except for the William Preston Lane, Jr. Memorial Bridge and its
13 parallel span, the Governor Thomas Johnson Memorial Bridge, and the area of the
14 Choptank River Bridge that is within Talbot County, within 50 feet of any bulkhead,
15 structure, wharf, pier, or piling that is erected in, over, or under the waters of the
16 State under a permit granted by the State or federal governments;

17 (4) Within 300 feet of any private bathing beach running not more
18 than 300 feet along the shore which is marked as required by rule and regulation or
19 within 1,000 feet of any public bathing beach from May 1 to September 30. However,
20 the owner or lessee of a single property may not claim protection for more than one
21 private bathing beach contiguous to this property;

22 (5) (i) Within 50 feet of the mean high watermark of any shoreline
23 in Calvert, Queen Anne's, Talbot, or Somerset counties;

24 (ii) Within 300 feet in Dorchester County; or

25 (iii) Within 150 feet in Anne Arundel County, St. Mary's County,
26 or Kent County downriver from Nichols Point at the eastern side of the mouth of
27 Langford Creek and within 300 feet upriver from Nichols Point; [and]

28 (6) The Dorchester County waters of the Choptank River and its
29 tributaries except as provided in §§ 4-1038(a) and 4-1039 of this subtitle; Brannock
30 Bay; Little Choptank River; Tar Bay; Honga River; all waters east of a line running
31 from the most southerly point of Holland Island to Holland Island Bar Light; all

1 waters east of a line running from Richland Point to Okahanikan Point; and any areas
2 reserved by the Department for production of seed oysters; AND

3 **(7) IN THE ATLANTIC COASTAL BAYS, AS DEFINED IN § 8-1802 OF**
4 **THIS ARTICLE.**

5 4-1038.

6 (a) Except as provided in § 4-1039 of this subtitle, a person may not catch
7 soft-shell clams by hydraulic clam dredge in the following waters:

8 (1) Anne Arundel County. —

9 (i) Within 500 feet of any sea nettle net;

10 (ii) Within 800 feet of any public bathing beach between
11 Saunders and Dutchman's Point, if the beach is marked as required by rule or
12 regulation and the public uses the beach for bathing;

13 (iii) In Marley Creek; Stoney Creek; Bodkin Creek; Magothy
14 River above a line drawn from Mountain Point to Persimmon Point; Little Magothy
15 River; Whitehall Bay between the shore and a line drawn from Hackett's Point to
16 Possum Point; Mill Creek; Severn River between the shore and a line drawn from
17 Greenbury Point to the east side of the entrance to Lake Ogleton; South River between
18 the shore and a line drawn between Turkey Point and east side of Duvall Creek, and
19 extending 1,500 feet in front of Sandy Point State Park and Fort Smallwood State
20 Park; West River south and west of a line running from Cheston Point to Curtis Point;
21 or

22 (iv) Anywhere in Anne Arundel County north of the Chesapeake
23 Bay Bridge within 800 feet of the shoreline, or south of the Chesapeake Bay Bridge
24 and north of Thomas Point within 300 feet of the shoreline from September 16 to April
25 15 and within 800 feet of the shoreline from April 16 to September 15; south of
26 Thomas Point within 300 feet of the shoreline, except that between Turkey Point and
27 Ramsey Lake clamming is prohibited within 800 feet of the shoreline. This subsection
28 does not prohibit the catching of clams by hydraulic clam dredge in West River or
29 Rhode River.

30 (2) Dorchester County. — In the Dorchester County waters of the
31 Choptank River and its tributaries, west of a line running from Horn Point to Martin
32 Point and east of a line running from Sharp's Island Light to Hill's Point from 30 days

1 before opening date of wild waterfowl hunting season until the closing date. For
2 purposes of this item, the seaduck season is not part of the wild waterfowl season.

3 (3) Queen Anne's County. — In the waters of Eastern Bay and its
4 tributaries; Shipping Creek; Cox's Creek; Crab Alley Creek; Wye River south of a line
5 from the southernmost tip of Ferry Point to the northernmost tip of Drum Point; Wye
6 East River west of a line from the southernmost tip of Wye Island to northernmost tip
7 of Bruff's Island; Kent Narrows south of a line drawn from the northernmost tip of
8 Ferry Point to the northernmost tip of Long Point.

9 (4) Somerset County. — In the Wicomico River or Monie Bay east of a
10 line from the easternmost entrance of Rock Creek to the southeast extremity of
11 Mollie's Point.

12 (5) Talbot County. —

13 (i) In the Tred Avon River and in Town Creek in front of
14 Oxford, between the shoreline and the center of the channel, except during October
15 and November;

16 (ii) Within 1,200 feet of the Federal Research Laboratory at
17 Oxford.

18 (b) A person may not catch by hydraulic or mechanical clam dredge
19 soft-shell clams from the waters of Charles or Wicomico counties, **OR THE ATLANTIC**
20 **COASTAL BAYS, AS DEFINED IN § 8-1802 OF THIS ARTICLE.**

21 4-1039.

22 (a) The Department may open or close any area in which the catching of
23 soft-shell clams by hydraulic clam dredge is not prohibited under the provisions of this
24 subtitle if: (1) in its opinion other natural resources will not be significantly damaged;
25 (2) the area to be opened is clearly defined and plainly marked; and (3) the area is
26 patrolled by Natural Resources Police vessels during dredging operations.

27 (b) In any area where hydraulic clam dredging is prohibited under §
28 4-1038(a) of this subtitle the Department may open selected areas if the areas opened
29 are patrolled by Natural Resources Police vessels during dredging operations.

30 (c) Before opening or closing any area the Department shall publish notice in
31 at least one newspaper of general circulation in the State, and in at least one

1 newspaper of general circulation in each county. Any closing or opening shall be
2 effective no less than 24 hours from publication of notice.

3 (d) The provisions of this section do not apply to Charles and Wicomico
4 counties, **OR THE ATLANTIC COASTAL BAYS, AS DEFINED IN § 8-1802 OF THIS**
5 **ARTICLE.**

6 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2007.