

# SENATE BILL 532

M2

(7lr2819)

## ENROLLED BILL

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

Introduced by **Senator Dyson**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

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Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
President.

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; providing for certain exceptions to the  
8 prohibition on taking or possessing diamondback terrapin; requiring the  
9 Department, in consultation with the Maryland Aquaculture Coordinating  
10 Council, to adopt certain regulations before issuing certain permits; repealing  
11 the requirement that the Department adopt certain regulations for the catching

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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.

*Italics indicate opposite chamber / conference committee amendments.*



1 of terrapin; requiring the Department to adopt certain regulations for the  
 2 conservation of diamondback terrapin; repealing certain exemptions from  
 3 certain excise and use taxes relating to the catching of terrapin for commercial  
 4 purposes; and generally relating to the catch, take, or possession of  
 5 diamondback terrapin.

6 BY repealing and reenacting, with amendments,  
 7 Article – Natural Resources  
 8 Section 4–215(b), 4–902, and 4–903  
 9 Annotated Code of Maryland  
 10 (2005 Replacement Volume and 2006 Supplement)

11 BY repealing and reenacting, without amendments,  
 12 Article – Natural Resources  
 13 Section 8–716(c)  
 14 Annotated Code of Maryland  
 15 (2000 Replacement Volume and 2006 Supplement)

16 BY repealing and reenacting, with amendments,  
 17 Article – Natural Resources  
 18 Section 8–716(e) and (g) and 8–716.1(k)  
 19 Annotated Code of Maryland  
 20 (2000 Replacement Volume and 2006 Supplement)

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

23 **Article – Natural Resources**

24 4–215.

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

27 (1) Striped bass or rockfish;

28 (2) White perch;

29 (3) Yellow perch;

30 (4) American shad;

31 (5) Hickory shad;

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

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

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

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

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

8 (B) THIS SECTION DOES NOT PROHIBIT:

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

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

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

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

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

23 (C) (1) THE DEPARTMENT, IN CONSULTATION WITH THE MARYLAND  
24 AQUACULTURE COORDINATING COUNCIL, SHALL ADOPT REGULATIONS FOR  
25 DIAMONDBACK TERRAPIN AQUACULTURE AND CAPTIVE BREEDING BEFORE  
26 ISSUING ANY ADDITIONAL PERMITS RELATING TO DIAMONDBACK TERRAPIN  
27 UNDER SUBTITLE 11A OF THIS TITLE OR TITLE 10, SUBTITLE 9 OF THIS  
28 ARTICLE.

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

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

5                    (II) STANDARDS FOR DIAMONDBACK TERRAPIN  
 6 HUSBANDRY; AND

7                    (III) STANDARDS FOR SHIPPING DIAMONDBACK TERRAPIN.

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.

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

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

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

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

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

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

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

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

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

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

26           (7) The purchase within the State of a vessel if the owner paid or  
27 incurred a liability for the Maryland sales and use tax on the vessel prior to July 1,  
28 1986;

29           (8) The possession within the State of a vessel which was purchased  
30 outside the State if the owner paid or incurred a liability for the Maryland use tax on  
31 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;

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.

30 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~~ July 1, 2007.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.