

# SENATE BILL 702

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71r2164

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By: **Senator Dyson**

Introduced and read first time: February 2, 2007

Assigned to: Education, Health, and Environmental Affairs

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 29, 2007

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 ~~**Natural Resources – Yellow Perch – Harvest Restrictions**~~  
3 ~~**Yellow Perch Conservation and Sustainability Act**~~

4 FOR the purpose of ~~prohibiting a person from installing, setting, operating, or~~  
5 ~~maintaining in certain tributaries of the Chesapeake Bay at certain times~~  
6 ~~certain fishing gear capable of catching yellow perch; establishing a certain~~  
7 ~~exception to the prohibition; establishing a certain exception to the authority of~~  
8 ~~the Department of Natural Resources to regulate a certain fishery resource~~  
9 ~~exclusively through the adoption of a fishery management plan; requiring the~~  
10 ~~Department, in consultation with certain stakeholders, to report annually to the~~  
11 ~~General Assembly on the environmental and economic impact of certain harvest~~  
12 ~~restrictions on or before a certain date~~ requiring the Department of Natural  
13 Resources to adopt certain regulations relating to yellow perch by a certain  
14 date; requiring the yellow perch management strategy adopted under this Act to  
15 be based on certain objectives and measures; requiring the Department to  
16 incorporate certain objectives into a certain fishery management plan for yellow  
17 perch; requiring the Department in consultation with certain stakeholders, to  
18 prepare and submit to certain committees of the General Assembly a certain  
19 report related to fisheries on or before a certain date; and generally relating to  
20 fishery management in the State.

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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.



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

BY adding to  
Article – Natural Resources  
Section ~~4-710(j)~~ 4-215.2  
Annotated Code of Maryland  
(2005 Replacement Volume and 2006 Supplement)

### Preamble

WHEREAS, There is an immediate need to conserve ~~the dwindling stock of and~~  
allocate yellow perch in the Chesapeake Bay and its tributaries for the purpose of  
sustaining the yellow perch population in the future and ensuring the continued  
economic viability of the yellow perch ~~commercial fishery~~ recreational and commercial  
fisheries; and

WHEREAS, Maryland's angling community is concerned about the State's  
regulatory efforts to manage this coveted fishery because of ~~questionable~~  
~~science-based~~ policies that ~~allow the~~ continue the current practices of commercial  
harvesting of yellow perch: (1) as the perch attempt to reach their ancestral spawning  
grounds; (2) at rates and with nets absent any appropriate limits; and (3) within  
tributaries previously restocked for yellow perch propagation purposes; and

WHEREAS, Markets for yellow perch harvested in Maryland are primarily  
located out of State; and

WHEREAS, The commercial harvest of yellow perch comprises ~~95%~~ the  
majority of the annual catch in Maryland and, under existing regulatory policies, is  
therefore the most measurable threat to the future sustainability of the yellow perch  
fishery; now, therefore,

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

### Article – Natural Resources

~~4-215.~~

1       ~~(h) Notwithstanding any other provision of this title BUT EXCEPT AS~~  
2 ~~PROVIDED IN § 4-710(H) OF THIS TITLE, once a fishery management plan has been~~  
3 ~~adopted by regulation, the State's fishery resources shall be harvested in accordance~~  
4 ~~with the conservation and management measures in the fishery management plan and~~  
5 ~~any regulations implementing or amending that plan.~~

6 ~~4-710.~~

7       ~~(j) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS~~  
8 ~~SUBSECTION, A PERSON MAY NOT INSTALL, SET, OPERATE, OR MAINTAIN IN A~~  
9 ~~TIDAL OR NONTIDAL TRIBUTARY OF THE CHESAPEAKE BAY FROM JANUARY 1~~  
10 ~~THROUGH MARCH 20, INCLUSIVE, OF ANY YEAR ANY ENTRAPMENT GEAR,~~  
11 ~~ENTANGLEMENT GEAR, OR NET CAPABLE OF CATCHING YELLOW PERCH.~~

12       ~~(2) A PERSON MAY USE THE FOLLOWING FISHING GEAR FOR~~  
13 ~~HARVESTING BAIT IN THE TIDAL AND NONTIDAL TRIBUTARIES OF THE~~  
14 ~~CHESAPEAKE BAY FROM JANUARY 1 THROUGH MARCH 20, INCLUSIVE, OF ANY~~  
15 ~~YEAR;~~

16               ~~(i) A HAND OPERATED DIP NET;~~

17               ~~(ii) A CAST OR THROW NET;~~

18               ~~(iii) A MINNOW TRAP THAT HAS A MAXIMUM OPENING~~  
19 ~~DIAMETER OF 1 INCH;~~

20               ~~(iv) A MINNOW SEINE; OR~~

21               ~~(v) AN EEL POT THAT HAS A MAXIMUM OPENING DIAMETER~~  
22 ~~OF 1.5 INCHES.~~

23       ~~(3) THE DEPARTMENT, IN CONSULTATION WITH INTERESTED~~  
24 ~~STAKEHOLDERS, SHALL REPORT TO THE GENERAL ASSEMBLY IN ACCORDANCE~~  
25 ~~WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE ON OR BEFORE~~  
26 ~~DECEMBER 31, 2008, AND EACH YEAR THEREAFTER ON THE ENVIRONMENTAL~~  
27 ~~AND ECONOMIC IMPACT OF THE HARVEST RESTRICTIONS FOR YELLOW PERCH~~  
28 ~~UNDER THIS SECTION, FOR THE PURPOSE OF DETERMINING THE CONDITIONS~~  
29 ~~OR CIRCUMSTANCES UNDER WHICH THE YELLOW PERCH RESTRICTIONS MAY BE~~  
30 ~~REPEALED~~

**4-215.2.**

**(A) ON OR BEFORE JANUARY 1, 2008, THE DEPARTMENT SHALL ADOPT REGULATIONS THAT:**

**(1) PROVIDE A MANAGEMENT STRATEGY FOR YELLOW PERCH THAT ENABLES YELLOW PERCH TO MIGRATE TO HISTORICAL SPAWNING RIVERS AND STREAMS BEFORE SPAWNING; AND**

**(2) EQUITABLY ALLOCATE HARVESTS OF YELLOW PERCH BETWEEN RECREATIONAL AND COMMERCIAL HARVESTERS.**

**(B) THE MANAGEMENT STRATEGY ADOPTED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE BASED ON OBJECTIVES AND MANAGEMENT MEASURES THAT ARE DEVELOPED IN CONSULTATION WITH STAKEHOLDER ORGANIZATIONS AND THE ADVISORY COMMISSIONS ESTABLISHED UNDER § 4-204 OF THIS SUBTITLE.**

**(C) THE DEPARTMENT SHALL INCORPORATE THE OBJECTIVES AND MANAGEMENT MEASURES DEVELOPED UNDER SUBSECTION (B) OF THIS SECTION INTO THE FISHERY MANAGEMENT PLAN FOR YELLOW PERCH ESTABLISHED UNDER § 4-215 OF THIS SUBTITLE.**

SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Natural Resources, in consultation with interested stakeholders, shall:

(1) analyze and develop findings regarding new funding mechanisms to help:

(i) underwrite the cost to the Department of researching, developing, managing, and enforcing the fishery policies of the State; and

(ii) promote the economic interests of the State's commercial fishing industry; and

(2) report the findings, in accordance with § 2-1246 of the State Government Article, to the House Environmental Matters Committee and the Senate

1 Education, Health, and Environmental Affairs Committee on or before November 1,  
2 2007.

3 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4 June 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.