

CHAPTER 260

(House Bill 964)

AN ACT concerning

Atlantic Coastal Bays – Dredging for Oysters and Clams – Prohibition

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

BY renumbering

Article – Natural Resources

Section 4–1021.1

to be Section 4–1021.2

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,

Article – Natural Resources

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

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

BY adding to

Article – Natural Resources

Section 4–1002 and 4–1021.1

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

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

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

Article – Natural Resources

4–215.

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

4–1002.

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

4–1012.

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

4–1021.1.

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

4–1037.

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

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

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

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

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

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

(ii) Within 300 feet in Dorchester County; or

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

(6) The Dorchester County waters of the Choptank River and its tributaries except as provided in §§ 4-1038(a) and 4-1039 of this subtitle; Brannock Bay; Little Choptank River; Tar Bay; Honga River; all waters east of a line running from the most southerly point of Holland Island to Holland Island Bar Light; all waters east of a line running from Richland Point to Okahanikan Point; and any areas reserved by the Department for production of seed oysters; **AND**

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

4-1038.

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

(1) Anne Arundel County. —

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

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

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

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

(2) Dorchester County. — In the Dorchester County waters of the Choptank River and its tributaries, west of a line running from Horn Point to Martin Point and east of a line running from Sharp’s Island Light to Hill’s Point from 30 days before opening date of wild waterfowl hunting season until the closing date. For purposes of this item, the seaduck season is not part of the wild waterfowl season.

(3) Queen Anne’s County. — In the waters of Eastern Bay and its tributaries; Shipping Creek; Cox’s Creek; Crab Alley Creek; Wye River south of a line from the southernmost tip of Ferry Point to the northernmost tip of Drum Point; Wye East River west of a line from the southernmost tip of Wye Island to northernmost tip

of Bruff's Island; Kent Narrows south of a line drawn from the northernmost tip of Ferry Point to the northernmost tip of Long Point.

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

(5) Talbot County. —

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

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

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

4-1039.

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

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

(c) Before opening or closing any area the Department shall publish notice in at least one newspaper of general circulation in the State, and in at least one newspaper of general circulation in each county. Any closing or opening shall be effective no less than 24 hours from publication of notice.

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

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, ~~2007~~ 2008.

Approved by the Governor, April 24, 2007.