

CHAPTER 208

(Senate Bill 169)

AN ACT concerning

Department of Natural Resources – Antiquated Fish and Fisheries Laws – Repeal

FOR the purpose of repealing certain provisions of law that prohibit a person from catching certain species of fish under certain circumstances; repealing certain provisions of law that prohibit a person from using certain devices to catch certain species under certain circumstances; repealing a law that prohibits the Department from closing Deep Creek Lake under a certain circumstance; repealing a provision of law that prohibits a person from setting certain nets within a certain distance of certain other nets; repealing a provision of law that prohibits a person from selling, offering to buy or sell, or possessing certain fish under certain circumstances; repealing a certain provision of law that places certain restrictions on the number of hard crabs a person may catch; and generally relating to the repeal of certain fish and fisheries laws.

BY repealing

Article – Natural Resources
Section 4–615, 4–737, 4–808, 4–811, and 4–813
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Natural Resources
Section 4–620, 4–625, 4–710, 4–734, 4–809, 4–1008.1, and 4–1031
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article – Natural Resources

[4–615.

Between the hours of 8:00 p.m. and 5:30 a.m., a person may not fish for or catch any fish in any nontidal water or stream which the Department or the federal government has stocked with trout, except as the Department provides by rule or regulation.]

4-620.

(a) Under supervision, rule or regulation, and control of the Department, a person may catch carp with bow and arrow and by gig.

[(b) A person may catch carp or eels under the supervision, or rule or regulation, and control of the Department in the waters of Allegany County, the Potomac River, and the Monocacy River in Frederick County.]

[(c) (B) (1) Except as provided in paragraph (2) of this subsection, a dip net or seine not more than 6 feet in length nor more than 4 feet in depth may be used to catch bait fish.

(2) A dip net or seine may not be used within 50 yards of the mouth of any river or tributary or the base of any dam.

[(d) (C) Fish may not be snagged by means of hooks.

[(e) Dams commonly known as "fish pots" may be constructed only in the waters of Conococheague Creek and Licking Creek. Necessary portable slats, tilts, slides, or escapes shall be installed in every fish pot and shall remain open when the fish pot is not attended or in use. Bass may not be caught from any fish pots by any means.

(f) A person may not use a seine or net of any description in any of the waters of Carroll County except to catch minnows and as provided in § 4-617(c)(3) of this subtitle.]

4-625.

(a) A person may not build, construct, have constructed, or place any wharf, pier, dock, float, or any projection along or running into or over the waters of Deep Creek Lake without first obtaining a written permit from the Department and the lessors of the area.

(b) [The Department may not close to the public any part of Deep Creek Lake at any time during the term of the lease between the State and the Eastern Land Corporation and Pennsylvania Electric Company dated June 8, 1942. However, the] **THE** Department, for proper fish management, may close as many as three tributaries to the lake for their length, at any one time, or prohibit fishing during the period between one hour after sunset and half an hour before sunrise if necessary to police the area properly.

[(c) This section does not change, modify, or enlarge in any manner, any term of the lease from the Eastern Land Corporation and the Pennsylvania Electric

Company to the State for the Department to use the Deep Creek Lake area, nor affect, in any manner, the rights, privileges, and reservations of the lessors in the area.]

4-710.

(a) A person may not catch finfish for any purpose in the tidal waters of the State by use of any gig, gig iron, purse net, beam trawl, otter trawl, trammel net, troll net, or drag net. Any person who violates this section by catching fish with any of the equipment or devices referred to in this subsection, with the exception of a gig or gig iron, is guilty of a misdemeanor and upon conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding one year, or both, with costs imposed in the discretion of the court. Any person who illegally catches fish with a gig or gig iron is subject to the penalties provided by this title.

(b) An appropriately licensed person may fish in the waters of the Atlantic Ocean with an otter trawl or beam trawl, subject to Department rules and regulations, if the person is at least one mile from the shoreline. The Department rules and regulations shall include:

(1) Setting seasons when otter trawl or beam trawl fishing is permitted; and

(2) Enumerating the species of fish which may be taken.

(c) (1) A person may not fish with any net whose size of stretched mesh, allowing a reasonable tolerance for shrinkage, is less than the following: pound net, 1 1/2 inches; haul seine, 1 1/2 inches; gill net, 2 1/2 inches; fyke or hoop net, 1 1/2 inches.

(2) Any hedging or lead attached to a fish trap, fyke net, or pound net shall be constructed of materials which have meshes having a twine size of #12 or larger.

(3) In the Chesapeake Bay and its tributaries, a person may not set or fish any gill net whose size of stretched mesh is more than 6 inches.

(4) This subsection does not apply to catching eels with a net.

(d) (1) Except as provided in paragraphs (2) and (3) of this subsection, a person may not install, set, operate, or maintain in any tidal water of the Chesapeake Bay or its tributaries any monofilament gill net webbing of any description to catch fish.

(2) A person may use a monofilament cast net or a monofilament throw net to catch baitfish in any tidal water of the Chesapeake Bay or its tributaries.

(3) In casting a monofilament net as provided under paragraph (2) of this subsection, a person:

(i) May not use a cast net that has a radius greater than 10 feet; and

(ii) May cast a cast net only by hand.

(e) [(1)] A person may not set any anchored gill net or fyke or hoop net or any line of these nets which has a length more than one third the distance across the waters of the bay, sound, river, creek, cove, or inlet where it is set, or is set so that it impedes or obstructs navigation on or blocks in any way the main channel of the bay, sound, river, creek, cove or inlet. The outer end of the submerged gear of any nets referred to in this subsection shall be marked by means of a paddle or board which shows the name, address and license number of the net owner.

[(2)] A person may not set an anchored gill net within 1200 feet of a pound or stake net, measured at right angles to the line of stakes.]

(f) A person may not haul any seine or net more than one third of the distance across the body of water, bay, sound, river, creek, cove, or inlet.

(g) A person may take or shoot carp, garfish, skate, bullfish, shark, oyster toads, swelling toads, sting rays, or any other ray fish with bow and arrow, except a crossbow, and snag these fish by means of hooks in the tidal waters of the State under the supervision, regulation, and control of the Department. This subsection only applies to the fish referred to in it.

(h) A person may not catch or attempt to catch finfish by the use of any stationary fishing gear, or set an anchor or mooring buoy, or in any way obstruct the normal taking of finfish by drift net from December 1 through April 1.

This subsection applies only to waters more than 50 feet in depth in the Chesapeake Bay south of the William Preston Lane, Jr., Memorial Bridge and is not applicable to any Chesapeake Bay tributaries. This provision does not apply to any designated anchorage in existence on July 1, 1975. The Department has the authority to permit exceptions to this section by regulations when it can be shown that the obstruction will not interfere with a useable fishing reach.

(i) (1) Except in State waters in the Atlantic Ocean, a person may not use more than 2 hooks or 2 sets of hooks for each rod or line.

(2) For the purposes of this subsection, artificial lures or plugs with multiple or gang hooks are considered 1 set of hooks.

(a) A person may not sell, offer to buy or sell, or possess any of the following fish:

(1) Bass, largemouth or smallmouth less than 15 inches from March 1 through June 15, and less than 12 inches from June 16 through the end of February;

[(2) Catfish, except bullheads, less than 10 inches;

(3) Croakers:

(i) For commercial catches, less than 9 inches;

(ii) For recreational catches and possession only, less than 9 inches and not more than 25 fish per day; and

(iii) However, a croaker less than the size limit provided in this paragraph may be sold during closed season if:

1. The croaker was caught in another state;

2. The croaker is accompanied by a bill of sale or bill of lading from the state of origin certifying that the croaker was caught in full compliance with the laws of the state of origin; and

3. The state of origin is in compliance with interstate fishing management requirements as determined by the Department;

(4) Yellow perch less than 8 inches, if caught other than by hook or line;]

[(5)] **(2)** Pike [or walleyed pike] less than 14 inches; **AND**

[(6) Weakfish less than 12 inches, except that weakfish less than 12 inches may be sold during closed season if:

(i) The weakfish was caught in another state;

(ii) The weakfish is accompanied by a bill of sale or bill of lading from the state of origin certifying that the weakfish was caught in full compliance with the laws of the state of origin; and

(iii) The state of origin is in compliance with interstate fishing management requirements as determined by the Department;

(7) Spotted sea trout less than 12 inches;

(8) Striped bass, less than 14 inches in length or measuring more than 32 inches. However, a person may possess one striped bass over 32 inches per day caught with hook and line in the tidal waters of the State at any time of the year except from March 1 to April 30 inclusive, which may not be sold or offered for sale. In any year that the young-of-the-year striped bass index exceeds 15, the Department may permit by regulation during the 12-month period beginning April 1 of the following year, the possession, sale, or offer for sale of striped bass 12 inches in length;

(9) Sturgeon weighing less than 25 pounds;]

[(10)] **(3)** Taylor [or bluefish] less than 8 inches.

[(11)] Summer flounder less than 13 inches except that an amount of undersized fish not greater than 5 percent of a vessel's load by number, as indicated by a sample of not less than 200 fish, may be retained by licensed commercial fishermen; and

(12) Red drum or channel bass less than 14 inches. A person may not possess more than 2 red drum or channel bass over 32 inches total length each, per day.]

(b) Measurement for each fish mentioned above shall be from the tip of the nose to the end of the tail.

(c) The Department may set the size limits for white perch. However, the Department may not prohibit catching white perch more than 8 inches.

[4-737.

(a) A person may catch shad and herring in the tidal waters of the State from January 1 to June 5, inclusive.

(b) A person may not catch, offer for sale, or possess any shad or herring freshly caught in the State between June 11 and December 31, inclusive. However, from June 6 to July 5, a person may catch or possess shad taken by means of hook and line.

(c) The season for catching shad and herring in the tidal waters shall be shortened by five days from the end of each season if Virginia shortens its season for catching shad and herring by 10 days from the end of the season, or takes action contingent upon action by this State shortening its season for shad and herring in its tidal waters by 5 days or less from the end of the season.]

[4-808.

A person may not catch hard crabs in any waters of the State, between January 1 and April 1.]

4-809.

(a) [A person may not catch or possess more than 10 hard crabs per bushel or 25 hard crabs per barrel which measure less than 5 inches across the shell from tip to tip of spike.]

[(b)] (1) Except as provided in paragraph (2) of this subsection, a person may not catch or possess peeler crabs measuring less than 3 inches across the shell from tip to tip of spike.

(2) A person may possess a bycatch of peeler crabs measuring less than 3 inches across the shell from tip to tip of spike if the bycatch is not greater than:

- (i) 30 per bushel; or
- (ii) 60 per float.

(3) In determining the number of peelers measuring less than 3 inches across the shell from tip to tip of the spike, the Department shall select the minimum number of bushels or floats necessary to be representative of the person's catch.

[(c)] (B) (1) Except as provided in paragraph (2) of this subsection, a person may not catch or possess soft crabs measuring less than three and one-half inches across the shell from tip to tip of the spike.

(2) (i) This paragraph applies until the Department adopts regulations under paragraph (3) of this subsection.

(ii) A person may possess a bycatch of soft crabs measuring less than three and one-half inches across the shell from tip to tip of the spike if the bycatch is not greater than one undersized soft crab per dozen soft crabs possessed.

(3) (i) The Department shall adopt regulations establishing and governing a permissible bycatch for soft crabs under this subsection.

(ii) The regulations that the Department adopts under this paragraph may not be more restrictive than the applicable restrictions on the permissible bycatch for hard crabs and peeler crabs.

[(d)] (C) In the waters of Worcester County, a person may not catch, possess, or keep in floats any fat crabs, or any crab known as snot crab, green crab, or buckram crab.

[(e)] (D) The minimum size of crabs does not apply to mature female crabs, identified by the rounded apron.

[(f)] (E) The provisions of subsection (a) do not apply to crabs imported into Maryland during the closed season for catching crabs if the person possessing the imported crabs has a certificate of origin.

[(g)] (F) Once taken, peelers shall be kept separate from other crabs.

[4-811.

Any owner of tidewater shoreline property in Anne Arundel, Baltimore, Worcester, Calvert, Charles, St. Mary's, Somerset, and Wicomico counties may set not more than four crab pots attached to his pier or dock, by line, string or rope, or attached to a pole set not more than 200 feet from shore. This pole shall be conspicuously marked by colored tape or similar material and shall have on it a sign at least 6 inches by 6 inches indicating the owner's name and address. In Worcester County, an owner of tidewater shoreline property may set not more than 4 crab pots attached to a buoy or float set not more than 200 feet from shore. In Worcester County, this buoy or float shall be colored or painted orange and conspicuously marked by a sign at least 6 inches by 6 inches indicating the owner's name and address. Pots may be set any day or night during the crab season when the shore owner or a member of his family is residing at the owner's shore property. Any person catching crabs in this manner shall use them for personal consumption only and may not sell them. The provisions of this section do not apply in the Potomac River.]

[4-813.

In Somerset County, a person may not harvest crabs with crab pots between sunset on any day and 1 hour before sunrise on the following day.]

4-1008.1.

(a) [A person may not catch oysters on Sunday or between sunset on any day and sunrise on the following day. A person may not land oysters earlier than one hour before sunrise or later than 2 hours after sunset. A buy boat or buy truck may not unload oysters earlier than one hour before sunrise or later than 2 hours after sunset unless the cargo of the buy boat or buy truck is accompanied by a certificate of inspection issued by a Natural Resources police officer. The certificate of inspection shall state the point of origin, and the time of origin which shall be between sunrise and sunset, and the quantity, in bushels, of the cargo.

(b) A person may not catch oysters by tongs or patent tongs or by diving except during the tonging and diving season from September 15 to March 31 inclusive

the following year. However, in the waters of Worcester County, the tonging and diving season is from January 1 to December 31, inclusive.

(c) A person may not catch oysters by dredge in the waters of the State where dredging is permitted except during the dredging season from November 1 to March 15 of the following year.

(d) Notwithstanding the provisions of subsections (b) and (c) of this section, the] **THE** Department may prolong by not more than two weeks the season for catching oysters.

[(e)] **(B)** (1) On the recommendation of the Calvert County or the St. Mary's County tongers' committee, the Department may authorize handscraping of oysters in the waters of Calvert and St. Mary's counties for 2 weeks, if inclement weather has prevailed during the tonging season.

(2) The Department shall determine the areas where handscraping of oysters is permitted.

(3) The Department shall establish regulations for the handscraping of oysters under this subsection. There shall be a catch limit of 10 bushels per person and no more than 30 bushels per boat. A person may not handscrape for oysters after 12:00 noon.

4-1031.

(a) In this section, "transverse dimension" means the measurement across both shells of a hard-shell clam at the widest point perpendicular to the hinge line where the two shells meet.

[(b)] Except as provided in subsection (d) of this section, a person may not possess hard-shell clams having a transverse dimension of less than seven-eighths of an inch.]

[(c)] **(B)** A clam dealer may possess hard-shell clams having a transverse dimension of less than [seven-eighths of an inch] **THE SIZE REQUIRED BY THE DEPARTMENT** if the dealer offers a bill of lading approved by the Department as proof that all clams were caught in waters outside the State.

[(d)] (1) Out of each 105 hard-shell clams in a person's possession, the person may possess up to 10 hard-shell clams that have a transverse dimension of less than seven-eighths of an inch.

(2) The Department shall determine the number of hard-shell clams in a person's possession that have a transverse dimension of less than seven-eighths

of an inch by taking a representative sample of the hard-shell clams in the person's possession.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 7, 2009.