

SENATE BILL 29

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(PRE-FILED)

By: **Senator Astle**

Requested: October 5, 2009

Introduced and read first time: January 13, 2010

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 1, 2010

CHAPTER _____

1 AN ACT concerning

2 **Department of Natural Resources – Preparation of Fishery Management**
3 **Plans – Authority**

4 FOR the purpose of authorizing the Department of Natural Resources to prepare
5 fishery management plans for any species of fish under certain circumstances;
6 requiring the Department to include certain information relating to overfishing
7 and sustainable harvests in a fishery management plan; authorizing the
8 Department to waive a requirement to include certain information in a fishery
9 management plan under certain circumstances; and generally relating to the
10 authority of the Department of Natural Resources to prepare fishery
11 management plans.

12 BY repealing and reenacting, with amendments,
13 Article – Natural Resources
14 Section 4–215
15 Annotated Code of Maryland
16 (2005 Replacement Volume and 2009 Supplement)

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

19 **Article – Natural Resources**

20 4–215.

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.



1 (a) (1) In this section the following words have the meanings indicated.

2 (2) "Conservation and management measures" means 1 or more
3 techniques through which the objectives of a fishery management plan are achieved.

4 (3) "Fishery" or "fishery resource" means:

5 (i) One or more stocks of fish which can be treated as a unit for
6 purposes of conservation and management and which are identified on the basis of
7 geographic, scientific, technical, recreational, and economic characteristics; or

8 (ii) The group or industry harvesting those stocks.

9 (4) "Fishery management" means the system used to conserve and
10 allocate the fishery resource, including research and data collection, determination of
11 objectives and management measures, and establishment, enforcement, and periodic
12 evaluation of regulations.

13 (5) "Fishery management plan" means a document or report that
14 contains a systematic description of a given fishery and the objectives and
15 conservation and management measures for the fishery.

16 (b) The Department shall prepare fishery management plans for the
17 following species:

18 (1) Striped bass or rockfish;

19 (2) White perch;

20 (3) Yellow perch;

21 (4) American shad;

22 (5) Hickory shad;

23 (6) Oysters;

24 (7) Blue crabs;

25 (8) Bluefish;

26 (9) Herring;

27 (10) Weakfish;

28 (11) Croaker;

- 1 (12) Spot;
- 2 (13) Summer flounder;
- 3 (14) American eel;
- 4 (15) Red drum;
- 5 (16) Black drum;
- 6 (17) Spotted sea trout;
- 7 (18) Horseshoe crabs;
- 8 (19) Menhaden;
- 9 (20) Tautog;
- 10 (21) Black sea bass;
- 11 (22) Scup;
- 12 (23) Hard shell clams; and
- 13 (24) Catfish.

14 **(C) THE DEPARTMENT MAY PREPARE FISHERY MANAGEMENT PLANS**
 15 **FOR ANY SPECIES OF FISH IF, AFTER CONSULTATION WITH THE TIDAL**
 16 **FISHERIES ADVISORY COMMISSION AND THE SPORT FISHERIES ADVISORY**
 17 **COMMISSION, THE DEPARTMENT DETERMINES THAT THE PLANS ARE**
 18 **NECESSARY BASED ON:**

- 19 **(1) THE POPULATION OF THE SPECIES;**
- 20 **(2) THE DISTRIBUTION OF THE SPECIES;**
- 21 **(3) THE HABITAT NEEDS OF THE SPECIES; OR**
- 22 **(4) OTHER BIOLOGICAL, ECOLOGICAL, OR SOCIOECONOMIC**
 23 **FACTORS CONCERNING THE SPECIES.**

24 **[(c)] (D)** (1) Conservation and management measures adopted under a
 25 fishery management plan, to the extent possible:

- 26 (i) Shall prevent overfishing while attempting to achieve the
 27 best and most efficient utilization of the State’s fishery resources;

- 1 (ii) Shall be based on the best information available;
- 2 (iii) May not discriminate unfairly among groups of fishermen or
3 have economic allocation as its sole purpose;
- 4 (iv) Shall take into account and allow for variations among, and
5 contingencies in, fisheries, fishery resources, and catches; and
- 6 (v) Shall avoid duplication of regulatory efforts and unnecessary
7 costs to the State and to any other person.

8 (2) If it becomes necessary to allocate or assign fishing privileges
9 among various groups of individuals under paragraph (1)(iii) of this subsection, or
10 under any fishery management plan, that allocation shall be:

- 11 (i) Fair and equitable to all individuals;
- 12 (ii) Reasonably calculated to promote conservation; and
- 13 (iii) Carried out in such a manner that no particular individual,
14 corporation, or other entity acquires an excessive share of such privileges.

15 **[(d)] (E) (1) ~~A~~ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
16 **SUBSECTION, A** fishery management plan may apply separately or jointly to the
17 waters of the Chesapeake Bay and its tidal tributaries, the coastal bays and their
18 tributaries, and the Maryland waters of the Atlantic Ocean and shall include:

- 19 ~~(1)~~ **(I)** The best available estimates of sustainable harvest rates;
- 20 ~~(2)~~ **(II)** Indicators that would trigger any tightening or loosening of
21 harvest restrictions;
- 22 ~~(3)~~ **(III)** A description of the fishery, including:
- 23 ~~(i)~~ **1.** The history of the fishery, and its current condition
24 relative to historic populations;
- 25 ~~(ii)~~ **2.** The numbers of potential commercial and recreational
26 fishermen projected to participate in the fishery;
- 27 ~~(iii)~~ **3.** The type and quantity of fishing gear used
28 commercially;
- 29 ~~(iv)~~ **4.** Where practicable, the cost likely to be incurred in the
30 management of the fishery; and

1 ~~(v)~~ **5.** The actual and potential revenues from the
2 recreational and commercial fishery; ~~and~~

3 **(IV) IF THE DEPARTMENT DETERMINES THAT A FISHERY**
4 **HAS BEEN, OR IS CURRENTLY, OVERFISHED:**

5 **1. A SPECIES-SPECIFIC TIME PERIOD FOR:**

6 **A. ENDING OR APPROPRIATELY ADDRESSING**
7 **OVERFISHING; AND**

8 **B. REBUILDING THE STOCK OF THE SPECIES TO A**
9 **SUSTAINABLE LEVEL; AND**

10 **2. A DESCRIPTION OF:**

11 **A. MANAGEMENT STRATEGIES THAT HAVE A HIGH**
12 **PROBABILITY OF REDUCING FISHING TO A TARGET LEVEL WITHIN A TARGET**
13 **TIME PERIOD, AS DETERMINED BY THE DEPARTMENT; AND**

14 **B. THE APPROPRIATE ASSIGNMENT OR ALLOCATION**
15 **OF FISHING PRIVILEGES IN ACCORDANCE WITH SUBSECTION (D)(2) OF THIS**
16 **SECTION; AND**

17 ~~(4)~~ **(V)** Other pertinent data that will assist the Secretary in
18 determining conservation and management measures reasonably necessary to ensure
19 that the fishery resources will be sustained.

20 **(2) THE DEPARTMENT MAY WAIVE THE REQUIREMENTS IN**
21 **PARAGRAPH (1)(IV) OF THIS SUBSECTION FOR A SPECIES OF FISH IF THE**
22 **DEPARTMENT DETERMINES THAT MEETING THE REQUIREMENTS IS NOT**
23 **PRACTICABLE OR BIOLOGICALLY APPROPRIATE BASED ON:**

24 **(I) THE SPECIFIC BIOLOGY OF THE SPECIES;**

25 **(II) THE MANAGEMENT OF THE SPECIES UNDER A FEDERAL**
26 **OR MULTI-STATE FISHERY MANAGEMENT PLAN;**

27 **(III) THE DESIGNATION OF THE SPECIES AS A NUISANCE;**

28 **(IV) ENVIRONMENTAL CONDITIONS; OR**

29 **(V) OTHER ECOLOGICAL FACTORS.**

30 **[(e)] (F)** A fishery management plan may include:

1 (1) Proposed limitations on the catch of fish, based on area, species,
2 size, number, weight, sex, incidental catch, total biomass, or other factors, which are
3 necessary and appropriate for conservation and management of a fishery;

4 (2) Incorporation of relevant fishery conservation and management
5 measures proposed or adopted by interstate bodies of which Maryland is a member;
6 and

7 (3) Other proposed measures, requirements, or conditions and
8 restrictions which are necessary and appropriate for fishery management.

9 **[(f)] (G)** The Department shall present the management plans under this
10 section in the form of an annual report, subject to § 2-1246 of the State Government
11 Article, to:

12 (1) The Legislative Policy Committee;

13 (2) The Education, Health, and Environmental Affairs Committee;
14 and

15 (3) The Environmental Matters Committee.

16 **[(g)] (H)** (1) (i) The Secretary shall adopt the proposed management
17 plans and any proposed conservation and management measures by regulation.

18 (ii) The Secretary may adopt conservation and management
19 measures in separate proceedings and by separate regulations. Conservation and
20 management measures adopted separately may include changes to those proposed or
21 adopted in a fishery management plan and any additional measures necessary to carry
22 out the adopted plan.

23 (iii) The Secretary may not prohibit the use of pound net sites in
24 the coastal bays that are registered with the Department as of January 1, 2000.

25 (2) The regulations of the Department to implement a fisheries
26 management plan for the coastal bays may not become effective under this section
27 until the Department first holds public hearings in Worcester County.

28 (3) All notices of public hearings required for the adoption of
29 regulations under this section shall be printed in the Maryland Register and further
30 publicized so as to provide reasonable notice to the affected communities of fishermen
31 and the public.

32 **[(h)] (I)** Notwithstanding any other provision of this title, except § 4-1002
33 of this title, once a fishery management plan has been adopted by regulation, the
34 State's fishery resources shall be harvested in accordance with the conservation and

1 management measures in the fishery management plan and any regulations
2 implementing or amending that plan.

3 **[(i)] (J)** The provisions of this section do not apply to aquaculture activities
4 in nontidal ponds, lakes, or impoundments in the State.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 July 1, 2010.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.