

SENATE BILL 59

M2

3lr0065

(PRE-FILED)

By: **Chair, Education, Health, and Environmental Affairs Committee (By Request – Departmental – Natural Resources)**

Requested: October 11, 2012

Introduced and read first time: January 9, 2013

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable

Senate action: Adopted

Read second time: January 22, 2013

CHAPTER _____

1 AN ACT concerning

2 **Natural Resources – Fish and Fisheries**

3 FOR the purpose of repealing a certain exemption for certain veterans' hospital
4 patients from the requirement to obtain an angler's license under certain
5 circumstances; repealing a certain provision of law that establishes the date by
6 which the Department of Natural Resources annually is required to adopt
7 regulations governing open seasons to catch certain species in nontidal waters;
8 repealing a certain provision of law that lists certain nontidal species for which
9 the Department is required to establish open seasons; repealing certain
10 provisions of law that prohibit a person from using, and authorize a person to
11 use, certain devices while catching fish under certain circumstances; narrowing
12 a certain restriction on the number of hooks that may be used to catch fish to
13 apply only to tidal fish licensees; repealing a certain provision of law that
14 prohibits the possession of peeler crabs of a certain size in an amount that
15 exceeds the established bycatch limits; repealing the requirement that the
16 Department use the minimum representative number of containers necessary
17 when determining the peeler crab bycatch; repealing a certain bycatch limit for
18 soft crabs; repealing certain timeframes under which the Department is
19 required to publish notice of and hold a public hearing under certain
20 circumstances regarding lobster harvest regulations; repealing a requirement
21 that certain notices related to lobster harvest regulations be published in
22 certain newspapers; altering the information that a person is required to
23 provide on an application for a commercial oyster license; altering the residency

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 requirement that a person is required to fulfill to be eligible for a commercial
 2 oyster or clam license; authorizing the Department to adopt regulations
 3 establishing the procedures for selling oysters and clams; repealing the
 4 prohibition against the sale or purchase of oysters or clams in locations other
 5 than a buying station; repealing certain procedures that a buyer of oysters or
 6 clams at a buying station is required to follow; repealing a certain provision of
 7 law that authorizes a person to buy soft-shell clams anywhere for certain
 8 purposes and requires the seller of the soft-shell clams to pay a certain tax;
 9 repealing a certain provision of law that establishes certain limitations on and
 10 authorizations for the use of patent tongs and hand tongs in certain areas of the
 11 State; repealing a certain provision of law prohibiting the harvest of oysters by
 12 dredge subject to certain exceptions; repealing certain standards for containers
 13 for the measurement of oysters sold in the State and authorizing the
 14 Department to adopt regulations governing the size, type, and use of oyster
 15 containers used to measure oysters harvested or sold in the State; making
 16 certain technical corrections; making certain stylistic changes; and generally
 17 relating to fish and fisheries.

18 BY repealing and reenacting, with amendments,

19 Article – Natural Resources

20 Section 4–217(e), 4–603, 4–617, 4–710(h) and (i), 4–809, 4–901, 4–1004,
 21 4–1007, 4–1012, and 4–1015.1(c)

22 Annotated Code of Maryland
 23 (2012 Replacement Volume)

24 BY repealing

25 Article – Natural Resources

26 Section 4–619, 4–620, 4–710(g), 4–1011, and 4–1018(a)

27 Annotated Code of Maryland
 28 (2012 Replacement Volume)

29 BY adding to

30 Article – Natural Resources

31 Section 4–1018(a)

32 Annotated Code of Maryland
 33 (2012 Replacement Volume)

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

36 **Article – Natural Resources**

37 4–217.

38 (e) An angler's license is not required of the following:

1 (1) [A convalescent patient of a veterans' hospital hospitalized for a
2 service-connected disability who fishes in waters of the State if the patient secures a
3 permit issued by a special service officer of the American Red Cross under authority
4 granted by the Department;

5 (2)] A patient who is under treatment by a State-approved mental
6 health facility and an individual who attends or resides in a State-approved
7 retardation facility; or

8 [(3)] (2) A caregiver, family member, or designee of a mental health
9 care facility or private group home of a patient who is under treatment by a
10 State-approved mental health facility, if:

11 (i) The administrator of the mental health care facility, or
12 treating physician or psychologist provides the Department with a letter stating that
13 the caregiver or family member is the primary caretaker of the patient; or

14 (ii) The individual accompanying the patient carries a copy of
15 the letter described under item (i) of this paragraph, or a professional license or
16 certificate of a health care professional involved in the care of the patient.

17 4-603.

18 Pursuant to § 4-602 of this subtitle, the Department shall establish [and
19 publish by October 25 each year] open seasons [to catch the following] **FOR**
20 **CATCHING SPECIES OF** game and freshwater fish [for the ensuing year:

21 (1) Largemouth bass and smallmouth bass;

22 (2) Pike and pickerel;

23 (3) Walleye;

24 (4) Rockfish, also known as striped bass;

25 (5) Brook trout, brown trout, and rainbow trout;

26 (6) American shad, hickory shad, and herring;

27 (7) Suckers, catfish, carp, eel, and gudgeon;

28 (8) All species of sunfish, including bluegill;

29 (9) Rock bass, also known as redeye;

30 (10) Fallfish;

1 (11) Crappie; and

2 (12) White perch and yellow perch] **IN NONTIDAL WATERS.**

3 4–617.

4 (a) [Except when fishing through ice, a person may not angle with more than
5 three rods and lines with two hooks to each line. Artificial lures or plugs with multiple
6 or gang hooks are considered one unit.

7 (b)] A slat basket, commonly known as the Chesapeake Bay eel pot, may not
8 be used to catch eels.

9 [(c)] (B) A State resident who has secured a resident angler's license may
10 fish by use of a dip net only from January 1 through April 15 only in the following
11 nontidal waters:

12 (1) The Susquehanna River in Cecil and Harford counties;

13 (2) In Allegany and Washington counties; and

14 (3) The Monocacy and Potomac rivers in Carroll and Frederick
15 counties. However, dip nets may not be used within 50 yards of the mouth of any
16 tributary or the breast of any dam of these rivers. A dip net may not be used in any of
17 the waters of the State which are stocked with trout.

18 [(d)] (C) (1) Only a person with a resident angler's license may use a
19 bush–bob or bank pole;

20 (2) Bush–bobs or bank poles not exceeding a total of 25 in all and not
21 exceeding one hook to a pole or bob may be used only in the waters of the Potomac or
22 Monocacy River within Carroll, Washington, and Frederick counties.

23 (3) Bush–bobs or bank poles may not be used on any streams stocked
24 with trout.

25 (4) A bush–bob or bank pole which has been baited with scale bait or
26 live bait may not be used to catch suckers, catfish, carp, eels, gudgeons and every
27 species of sunfish, including bluegills and rock bass, commonly known as redeye.

28 (5) A bush–bob or bank pole may not be used except between sunset
29 and sunrise.

30 [(e)] (D) The Department may regulate, supervise, and control ice–fishing.

1 **[(f)] (E)** White shad, hickory shad, and herring may be caught or taken
2 only by angling, unless otherwise provided.

3 **[(g)] (F)** A person may catch large or small mouth black bass from nontidal
4 waters of the State only by angling. An artificial lure is legal.

5 **[4-619.**

6 Except as provided in § 4-620 of this subtitle, a person may not use or attempt
7 to use a gig, gig iron, net, seine, fish pot, or other fishing rig. If any person is found in
8 possession of the devices prohibited by this section while catching fish, it is prima facie
9 evidence of a violation of this section.]

10 **[4-620.**

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

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

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

18 (c) Fish may not be snagged by means of hooks.]

19 **4-710.**

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

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

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

1 **[(i)] (H)** (1) Except in State waters in the Atlantic Ocean, a **[person]**
2 **TIDAL FISH LICENSEE** may not use more than 2 hooks or 2 sets of hooks for each rod
3 or line.

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

6 4–809.

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

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

12 (i) 30 per bushel; or

13 (ii) 60 per float.

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

17 **(b)]** (1) Except as provided in **REGULATIONS ADOPTED UNDER**
18 paragraph (2) of this subsection, a person may not catch or possess soft crabs
19 measuring less than three and one-half inches across the shell from tip to tip of the
20 spike.

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

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

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

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

31 **[(c)] (B)** In the waters of Worcester County, a person may not catch,
32 possess, or keep in floats any fat crabs, or any crab known as snot crab, green crab, or
33 buckram crab.

1 [(d)] (C) The minimum size of crabs does not apply to mature female crabs,
2 identified by the rounded apron.

3 [(e)] (D) The [provisions of subsection (a) of this section do] **MINIMUM SIZE**
4 **FOR PEELER CRABS SET BY THE DEPARTMENT IN REGULATION DOES** not apply
5 to crabs imported into Maryland during the closed season for catching crabs if the
6 person possessing the imported crabs has a certificate of origin.

7 [(f)] (E) Once taken, peelers shall be kept separate from other crabs.

8 4-901.

9 (a) The Department may adopt rules and regulations to:

10 (1) Restrict the possession, landing, selling, or transporting of any
11 lobster or lobster parts;

12 (2) Establish minimum size limits for lobsters.

13 (b) The Department shall publish a notice of [its] **ANY** [proposed] lobster
14 harvest regulations **PROPOSED UNDER THIS SECTION**, and of any subsequent
15 amendments **TO THE REGULATIONS**, [at least 30 days before the effective date of the
16 proposal] and shall hold a public hearing on the proposal [at least 15 days before the
17 effective date] unless a public hearing on a substantially similar proposal has been
18 conducted in the State by a federal management authority with notice advertised by
19 the Department as required by this section. The notice shall include the time and
20 place of any hearing [and shall be published in at least one newspaper of general
21 circulation in the State and at least one newspaper of general circulation in Worcester
22 County].

23 4-1004.

24 (a) (1) A person may not catch oysters or clams for commercial purposes
25 in the waters of the State unless the person first obtains a license, but a resident may
26 catch up to 1 bushel each of oysters and clams a day for [his] **THE PERSON'S** own use
27 and consumption without a license, in places and at times prescribed by rule or
28 regulation of the Department. Notwithstanding the preceding sentence, a nonresident
29 may catch in the tidal bays of Worcester County up to 1 bushel of hard clams per day
30 for [his] **THE NONRESIDENT'S** own use and consumption.

31 (2) The Department shall require an applicant for an oyster license to
32 [indicate whether the applicant will use any diving apparatus, including
33 self-contained underwater breathing apparatus, to catch oysters. On this application
34 for a license to catch oysters, the Department shall require the applicant to] give the
35 applicant's address and telephone number.

1 (b) [A person who has been] **ONLY** a resident of the State [for 12 months
2 immediately preceding his application for a license] may obtain a license to catch
3 oysters or clams **FOR COMMERCIAL PURPOSES** in the waters of the State.

4 4–1007.

5 (a) The Department may [designate by rule or regulation certain areas of the
6 State, known as buying stations, where a person who catches oysters and clams may
7 sell them.] **ADOPT REGULATIONS DESIGNATING OYSTER AND CLAM BUYING
8 STATIONS AND ESTABLISHING THE PROCEDURES FOR SELLING OYSTERS AND
9 CLAMS.**

10 (b) [(1) A person may not sell his catch in any place not designated a
11 buying station.

12 (2) A person may not buy oysters or clams from the person who
13 catches them in any place not designated a buying station.

14 (c) However, any person may buy soft-shell clams anywhere for his own
15 consumption or use as bait, but not for resale from the person who catches them.
16 However, the person who catches the soft-shell clams shall assume responsibility for
17 paying the tax imposed by § 4–1035 of this subtitle.

18 (d) (1) For every sale of oysters or clams at a buying station, the buyer
19 shall:

20 (i) Fill out the buying ticket;

21 (ii) Distribute copies to the seller and the Department; and

22 (iii) Maintain a copy.

23 (2) The Department shall print up and make available to the buyer of
24 oysters or clams the necessary forms required **IN REGULATIONS ADOPTED** under this
25 [subsection] **SECTION.**

26 [4–1011.

27 (a) A person may not use patent tongs to catch oysters in any of the following
28 waters: Wicomico, Queen Anne's, Talbot, Dorchester, and Kent counties, except on the
29 following natural oyster bars: 2–9, 2–10, 5–1, 5–2, also known as Huntingfield Bar
30 5–3, and 5–7, as defined on the charts of the Oyster Survey of 1906 to 1912, and its
31 amendments.

1 (b) A person may catch oysters by patent or hand tongs in Talbot County
2 waters within the following bounds:

3 Beginning at Kent Point and following the territorial county line in an easterly
4 direction to where it intercepts the Queen Anne's County–Talbot County line, then
5 following the county line northeasterly to the point where a straight line drawn from
6 Long Point to the Wades Point bell buoy intersects the county line, from there in a
7 southeasterly direction to the Wades Point bell buoy, and then direct to Wades Point,
8 and then following the shoreline to Lowes Point, and then direct towards the Bloody
9 Point Lighthouse for a distance of 1.8 miles, and then direct to North Point on Poplar
10 Island.

11 (c) A person may not use patent tongs to catch oysters:

12 (1) In the Patuxent River above and north of a straight line joining
13 Sotterly Wharf and the beacon at St. Leonard Creek; or

14 (2) In the tributaries of the Potomac River.

15 (d) A person may take or catch oysters by hand tong only in the waters of
16 Holland Straits lying within the territorial limits of Somerset County. Holland Straits
17 is that body of water bound by a line, on the north or Tangier Sound side, drawn from
18 Lower Island Point to Sound Point and by a line, on the south or Kedges Straits side,
19 drawn from Pry Island to the southern end of Holland Island.

20 (e) A person may not use patent tongs to catch oysters in the South River in
21 Anne Arundel County above and west of a straight line drawn between Thomas Point
22 and Saunders Point.

23 (f) A person may not use patent tongs to catch oysters in waters of
24 Chesapeake Bay that are adjacent to Dorchester County and that lie generally
25 eastward and northward of a line drawn in a southeasterly direction from the
26 southernmost tip of Barren Island to Richland Point on Hooper Island.]

27 4–1012.

28 (a) A person may not catch oysters by dredge in the Atlantic Coastal Bays, as
29 defined in § 8–1802 of this article, or in the following areas of the Chesapeake Bay: the
30 area bounded by a line drawn from Lowes Point towards the Bloody Point Lighthouse
31 for a distance of 1.8 miles, and then direct to North Point on Poplar Island; then
32 southerly around the westerly shore of Poplar Island to the southwesterly most point;
33 then running in a straight line to the Department marker on the northern shore of
34 Pawpaw Cove which area shall be reserved for catching of oysters with shaft tongs
35 only; all the area lying within one–fourth mile of the western shore of Poplar Island;
36 all the area within one–half mile of Plum Point; all the area within one and one–half
37 miles of Sandy Point, Hackett Point, Tolly Point, and Thomas Point within Anne
38 Arundel County waters; and the following oyster bars: 2–9, 2–10, 5–1, 5–2, 5–3A,

1 5-3B, 8-2, 8-6, and 8-9, as defined by the charts of the Oyster Survey of 1906 to 1912,
2 and its amendments.

3 (b) [A person may not catch oysters by dredge except in the following waters:

4 (1) Dorchester County. The area bounded as follows: beginning at
5 Crab Point in Honga River, then proceeding in a straight line to the most easterly
6 point on Lower Hooper Island to the Dorchester County line, then following the shore
7 line to Richland Point, then in a straight line southerly to Oakanhanikan Point, then
8 following the north shoreline of Bloodsworth Island to Tigs Point, then in a
9 northeasterly direction to Bishop Head Point, then along the shore to Crab Point, and
10 then to the place of beginning.

11 (2) Dorchester and Talbot counties. All that portion of the Choptank
12 River within an area bounded as follows: beginning at the Department marker on
13 Upper Bar Neck, Tilghman Island; then proceeding in a straight line easterly to
14 Benoni Lighthouse; then in a straight line easterly to Chlora Point; then in along the
15 shore easterly to Howell Point; then southerly across the Choptank River to Horn
16 Point; then westerly in a straight line to Castlehaven Point; then westerly in a
17 straight line to Todd Point; then westerly in a straight line to Cook Point; along the
18 shore to Hill's Point; then in a straight line to James' Point on James' Island; then in a
19 straight line to Sharp's Island Lighthouse; then in a straight line to Blackwalnut
20 Point; then along the shore to the Department marker, the point of the beginning.

21 (3) Somerset County. All the waters of Somerset County, except
22 Pocomoke Sound, including the Wicomico, Manokin, and Big Annemessex rivers,
23 which are defined as follows:

24 Wicomico River: easterly of a straight line drawn from the former dwelling of
25 Thomas Tigner near Hains Point to the most southwesterly point of Clay Island.

26 Manokin River: landward or upstream of a straight line joining South Point on
27 Little Deals Island to Hazard Point on the mainland.

28 Big Annemessex River: easterly of a straight line from Tenth Point to Porpoise
29 Point; and for the purpose of this section, Tenth Point shall be considered to be the
30 easterly point of the marsh at the entrance of Thru Creek shown on published Chart
31 No. 7 of the Oyster Survey of 1906 to 1912, at a position of latitude 38 degrees, 2
32 minutes, 19.20 seconds and longitude 75 degrees 51 minutes 39.47 seconds; and
33 Porpoise Point shall be considered to be the most westerly point of the marsh of Pat
34 Island and that part of Tangier Sound, south of a line drawn in an easterly course
35 from Terrapin Sands Point on the west side of Tangier Sound to the channel and then
36 following the channel in a southerly direction to the Virginia Line.

37 (4) Talbot County. The waters bayward of a line beginning at Kent
38 Point and following the territorial county line in an easterly direction to where it
39 intercepts the Queen Anne's County-Talbot County line; then following the county

1 line northeasterly to the point where a straight line drawn from Long Point to the
2 Wades Point bell buoy intersects the county line; from there in a southeasterly
3 direction to the Wades Point bell buoy; and then direct to Wades Point bell buoy; and
4 then direct to Wades Point; then following the shoreline to Lowes Point; and then
5 direct towards the Bloody Point Lighthouse for a distance of 1.8 miles; and then direct
6 to North Point on Poplar Island.

7 (c) Any boat sailing over any areas of the State which are exempt from
8 dredging, by this subtitle or by rule or regulation of the Department, with any dredge,
9 scrape, scoop, or similar instrument on board or in tow, may be apprehended by any
10 Natural Resources police officer or any other law enforcement officer. If the boat has
11 on board any wet oysters, dredge, or dredge line, or if the deck is wet and the boat is
12 equipped for catching oysters with dredge or similar instrument, these facts shall be
13 prima facie evidence that the boat has been used to violate the provisions of this
14 section.

15 4-1015.1.

16 (c) [On or after July 1, 1983 and before September 30, 1983, the] **THE**
17 Department shall by rule and regulation set aside certain waters of this State to be
18 used exclusively by hand tongers in catching oysters. Before adopting the regulations
19 in their final form, the Department shall consult each of the local hand tonger
20 committees.

21 4-1018.

22 [(a) (1) Every oyster in the shell and every oyster shell sold in the State
23 shall be measured either in a half bushel tub, a bushel tub, a bushel and a half tub, or
24 a 3 bushel tub. A person shall measure oysters in the shell or oyster shells only with
25 an iron circular tub having straight sides and a straight solid bottom, with holes in the
26 bottom for draining which are no larger than 1 inch in diameter. The Department may
27 set standards and allow other bulk containers it deems proper. Every measurement
28 shall be taken from inside to inside. The dimensions shall be as follows:

29 (i) Half bushel tub – 15 inches across the top, 13 inches across
30 the bottom, and 17 inches diagonally from the inside chime to the top;

31 (ii) Bushel tub – sixteen and one-half inches across the bottom,
32 18 inches across the top, and 21 inches diagonally from the inside chime to the top;

33 (iii) Bushel and a half tub – 18 inches across the bottom, 19
34 inches across the top, and 24 inches diagonally from the inside chime to the top; and

35 (iv) Three bushel tub – 22 inches across the bottom, 24 inches
36 across the top, and 29.26 inches diagonally from the inside chime to the top.

1 (2) All oysters measured in the shell as required by this section shall
2 be even measure to the top of the tub only.]

3 (A) THE DEPARTMENT MAY ADOPT REGULATIONS GOVERNING THE
4 SIZE, TYPE, AND USE OF CONTAINERS USED TO MEASURE OYSTERS HARVESTED
5 OR SOLD IN THE STATE.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 July 1, 2013.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.