

SENATE BILL 629

M1, M2

0lr3201
CF 0lr3162

By: **Senators Kagan, Elfreth, Pinsky, and Washington**

Introduced and read first time: February 3, 2020

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Natural Resources – SAV Protection Zones and Hydraulic Clam Dredges**
3 **(Aquatic Habitat Protection Act)**

4 FOR the purpose of authorizing the Secretary of Natural Resources to adopt regulations to
5 define and govern the use of hydraulic clam dredges, subject to certain requirements;
6 increasing the frequency with which the Department of Natural Resources must
7 update the delineations of submerged aquatic vegetation (SAV) protection zones;
8 requiring the updated delineations to include areas where submerged aquatic
9 vegetation has been mapped by certain surveys in certain years; altering the
10 conditions on which a previously delineated SAV protection zone may be opened to
11 the use of certain gear; authorizing, rather than requiring, the Department to utilize
12 certain buoys or landmarks to mark SAV protection zones; requiring the Department
13 to provide certain maps on the Department’s website; prohibiting a person from
14 using certain gear within a certain distance of an SAV protection zone; requiring the
15 Department to conduct a certain study and submit a certain report to certain
16 committees of the General Assembly on or before a certain date; making stylistic
17 changes; and generally relating to SAV protection zones and hydraulic clam dredges.

18 BY repealing and reenacting, with amendments,
19 Article – Natural Resources
20 Section 4–221, 4–1001(m), 4–1006.1, and 4–1037(6) and (7)
21 Annotated Code of Maryland
22 (2018 Replacement Volume and 2019 Supplement)

23 BY repealing and reenacting, without amendments,
24 Article – Natural Resources
25 Section 4–1001(a)
26 Annotated Code of Maryland
27 (2018 Replacement Volume and 2019 Supplement)

28 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Natural Resources
2 Section 4–1037(8)
3 Annotated Code of Maryland
4 (2018 Replacement Volume and 2019 Supplement)

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

7 **Article – Natural Resources**

8 4–221.

9 (a) The authority provided by this section is in addition to any other authority of
10 the Secretary provided by law.

11 (b) (1) Subject to paragraph (2) of this subsection, the Secretary, after
12 consultation with the Tidal Fisheries Advisory Commission and the Sport Fisheries
13 Advisory Commission, may adopt regulations to define and govern the use of:

14 (i) Recreational fishing gear; and

15 (ii) The following types of commercial fishing gear:

16 1. Fish pots;

17 2. Bank traps;

18 3. Fyke nets;

19 4. Hoop nets;

20 5. Finfish trotlines; [and]

21 6. Bowfishing gear; AND

22 **7. HYDRAULIC CLAM DREDGES.**

23 (2) The Department shall consider relevant biological, ecological, and
24 socioeconomic factors before adopting regulations under this subsection.

25 4–1001.

26 (a) In this subtitle the following words have the meanings indicated.

27 (m) **(1)** “Hydraulic clam dredge” means any device used for dredging clams
28 which consists of a manifold through which water is forced under pressure for the purpose
29 of digging clams and working them into the mouth of the dredge where the clams then are

1 brought up to boat level by means of an escalator.

2 (2) “Hydraulic clam dredge” includes the vessel on which the dredge is
3 carried.

4 4–1006.1.

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

6 (2) “Aerial survey” means the annual aerial survey compiled by the
7 Virginia Institute of Marine Sciences for the annual Bay–wide Submerged Aquatic
8 Vegetation Mapping Program.

9 (3) “SAV protection zone” means an area delineated by the Department for
10 the protection from uprooting and the restoration of submerged aquatic vegetation.

11 (b) (1) [In 2004 and every 3 years thereafter] **EACH YEAR**, the Department
12 shall update the delineations of SAV protection zones [that were completed in 2001].

13 (2) The updated delineations shall include areas where submerged aquatic
14 vegetation has been mapped by aerial surveys during at least 1 of the previous [3] **5** years.

15 (c) (1) Except as provided in paragraph (2) of this subsection, a previously
16 delineated SAV protection zone may be opened to the use of the gear set forth in subsection
17 (f) of this section during an update if:

18 (i) Aerial surveys have not shown any submerged aquatic
19 vegetation in the area during the past [3] **5** years; or

20 (ii) Aerial surveys have shown the density of submerged aquatic
21 vegetation in that area to be less than 10% during each of the past 6 years.

22 (2) The areas in the vicinity of Smith Island, South Marsh Island, and
23 Bloodworth Island that were closed to hydraulic clam dredging in the 1999 delineation
24 shall be closed to the gear set forth in subsection (f) of this section and may not be reopened.

25 (d) (1) To the extent possible, the Department shall adjust SAV protection
26 zones so that delineations are geographically manageable, utilizing straight lines and
27 existing points of reference.

28 (2) (i) To the extent possible, an adjustment made in accordance with
29 paragraph (1) of this subsection shall result in no net loss or gain of protected area.

30 (ii) To the extent possible, to prevent the net loss or gain of protected
31 area resulting from an adjustment made in accordance with paragraph (1) of this
32 subsection, the adjustment may:

- 1 1. Exclude small areas of vegetated bottom; or
- 2 2. Include small areas of unvegetated bottom.

3 (e) The Department:

4 (1) [Shall] **MAY** utilize buoys or other visible landmarks as appropriate to
5 mark SAV protection zones;

6 (2) May make revisions to the delineations of SAV protection zones at any
7 time if determined to be necessary; [and]

8 (3) Shall publish, by public notice, delineations of SAV protection zones and
9 revisions to SAV protection zones; **AND**

10 **(4) SHALL PROVIDE CURRENT MAPS OF THE LOCATIONS OF SAV**
11 **PROTECTION ZONES ON THE DEPARTMENT'S WEBSITE.**

12 (f) A person may not use the following gear [in a] **WITHIN 150 FEET OF AN SAV**
13 protection zone:

14 (1) A hydraulic clam dredge;

15 (2) A traditional bottom dredge; and

16 (3) A shinnecock rake.

17 (g) This section may not be construed to affect the authority of the Department
18 to adopt any additional measures that the Department determines are necessary to protect
19 submerged aquatic vegetation beds in the waters of the State.

20 4–1037.

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

24 (6) The Dorchester County waters of the Choptank River and its
25 tributaries, east of a line running from Horn Point to Martin Point and west of a line
26 running from Sharp's Island Light to Hill's Point; Brannock Bay; the Little Choptank River;
27 Tar Bay; the Honga River; all waters east of a line running from the most southerly point
28 of Holland Island to Holland Island Bar Light; all waters east of a line running from
29 Richland Point to Okahanikan Point; and any areas reserved by the Department for
30 production of seed oysters; [and]

31 (7) In the Atlantic Coastal Bays, as defined in § 8–1802 of this article; **AND**

1 **(8) WITHIN 150 FEET OF AN SAV PROTECTION ZONE.**

2 SECTION 2. AND BE IT FURTHER ENACTED, That:

3 (a) The Department of Natural Resources shall conduct a study to:

4 (1) determine the ecological effects of hydraulic clam dredging, including
5 the direct and indirect effects on submerged aquatic vegetation and aquatic habitat; and

6 (2) identify strategies and make recommendations for reducing the
7 negative ecological effects of hydraulic clam dredging.

8 (b) On or before December 1, 2021, the Department shall submit a final report to
9 the Senate Education, Health, and Environmental Affairs Committee and the House
10 Environment and Transportation Committee, in accordance with § 2-1257 of the State
11 Government Article, on the results of the study required under this section.

12 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
13 1, 2020.