

Letter from Department of Natural Resources on House Bill No. 1531

April 18, 1973

Mr. John C. Eldridge
Chief Legislative Officer
State House
Annapolis, Maryland 21404

Dear Mr. Eldridge:

Veto of House Bill 1531 is urgently requested.

Maryland's management of the striped bass resource has since 1962 been based largely on protection of the species on the 14 major spawning grounds enumerated in Department of Natural Resources Regulation 8.02.05.04 (copy attached). While no cause-and-effect relationship is demonstrable, the species has for the past decade been present in Maryland waters in unprecedented abundance, and is currently an enormously valuable resource, accounting for more than half the value of the State's commercial finfish catch and supporting a sport fishery worth many millions of dollars annually.

Regulation 8.02.05.04 was adopted pursuant to the provisions of Section 263(g) of Article 66C, which authorizes the Department to "restrict or prohibit by regulation the taking or catching of fish in those areas where striped bass spawn during the spawning season of the species." The regulation prohibits setting of fishing of drift gill nets or setting of stake or anchor gill nets between Friday midnight and Sunday midnight during the striped bass spawning season in the 14 major striped bass spawning areas, of which the Elk River is one. The regulation was adopted as a means of relieving the very heavy weekend fishing pressure which had existed in the spawning areas as a result of the "moonlighting" activities of part-time fishermen. The regulation has been very effective, not only in protecting the striped bass during the most vulnerable period of its life history, but in minimizing oversupply and consequent depression of prices to unprofitable levels, as well as waste of the resource.

The intent of the sponsors of HB-1531 apparently was to exempt the Elk River from the provisions of Section 263(g) of Article 66C and Regulation 8.02.05.04. The title reads "...to permit gill net fishing in the Elk River..." The bill was passed by the House without public hearing. In the Senate it was referred to the local Senators and passed in one night under suspension of rules, again without public hearing. If we had been given an opportunity to testify on the bill, we would have pointed out that the bill exempts the Elk River from the provisions of all laws governing gill netting from Friday midnight until Sunday midnight. If the bill becomes law, between Friday midnight and Sunday midnight in the Elk River, any person (including non-residents and foreign nationals) will be entitled to set and fish gill nets of any description, in any manner, for any purpose, without obtaining a license of any kind. Gill nets could be set from shore to shore, completely obstructing navigation in one of the State's busiest waterways (C & D Canal).

If additional justification for veto is needed, we contend that the bill is defective in that the text goes far beyond the intent stated in the title. We also believe the enactment of what apparently was considered local legislation by the General Assembly, but governing the waters of the State, raises a question of constitutionality.